



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: May 17, 2019

TIME: 9:36 AM

WSR 19-11-082

**Agency:** Health Care Authority

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** As directed by the Legislature, the agency created rules to implement a premium assistance program for Pacific Islanders residing in Washington under a compact of free association (COFA).

**Citation of rules affected by this order:**

New: 182-524-0100, 182-524-0200, 182-524-0250, 182-524-0300, 182-524-0400, 182-524-0500, 182-524-0600  
 Repealed:  
 Amended:  
 Suspended:

**Statutory authority for adoption:** Substitute Senate Bill 5683, 65th Legislature, 2018 Regular Session, Engrossed Substitute Senate Bill 6032 Sec. 213 (1)(hhh), (4)(d), 65th Legislature 2018 Regular Session, RCW 41.05.021, 41.05.160

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 19-04-006 on January 23, 2019 (date).  
 Describe any changes other than editing from proposed to adopted version:

Proposed/Adopted	WAC Subsection	Reason
<b>Original WAC # 182-524-0100 - General</b>		
Proposed	(3) You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC.	The agency added additional information regarding coordinated appeals with the Washington Health Benefit Exchange, as suggested by a commenter.
Adopted	(3) You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC. For coordinated appeals with the Washington Health Benefit Exchange, as described under WAC 182-526-0102, we treat appeals made to either the Washington Health Benefit Exchange or us as filed on the same day. You will not have to submit any information that you have previously submitted to either the	

	Washington Health Benefit Exchange or us.	
<b>Original WAC # 182-524-0250 – How to apply</b>		
Proposed	(2) When you submit an application for a QHP through HBE, you are automatically considered for COFA islander health care.	The agency added clarification, as suggested by a commenter.
Adopted	(2) When you submit an application for a QHP through HBE using any of the methods listed in subsection (1) of this section, you are automatically considered for COFA islander health care.	
<b>Original WAC # 182-524-0300 - Eligibility</b>		
Proposed	(6) Your COFA islander health care begins the first day of the month following the month you meet the eligibility requirements as described in subsection (1) of this section.	The agency added clarification, as suggested by a commenter.
Adopted	(6) Your COFA islander health care begins the first day of the month your silver level QHP coverage begins and you meet the other eligibility requirements as described in subsection (1) of this section.	
<b>Original WAC # 182-524-0300 - Eligibility</b>		
Proposed	(7) (b) The first day of the month after the following month if the change was reported after the fifteenth of the month.	This change was made to clarify when a client's coverage begins after reporting a change.
Adopted	(7) (b) The first day of the second month if the change was reported after the fifteenth of the month.	
<b>Original WAC # 182-524-0500 – Notice requirements</b>		
Proposed	(1) This section applies only to notices and letters that we send regarding COFA islander health care.	The agency agreed to add clarification by recommendation of a commenter.
Adopted	(1) The provisions in chapter 182-518 apply to COFA islander health care, where applicable. This section applies only to notices and letters that we send regarding COFA islander health care.	
<b>Original WAC # 182-524-0500 – Notice requirements</b>		
Proposed	(2) (c) Change or terminate your eligibility from COFA islander health care; and (d) Ask you for more information.	The agency agreed to add clarification by recommendation of a commenter.

Adopted	(2) (c) Change or terminate your eligibility from COFA islander health care; (d) Ask you for more information; and (e) Reimburse you for premium costs, as determined by WAC 182-524-0600.	
<b>Original WAC # 182-524-0500 – Notice requirements</b>		
Proposed	(3) (b) Specific contact information for you if you have questions or need help with the notice; (f) Your appeal rights, if an appeal is available; and (g) Other information required by the state.	Added “to use” for further clarification, as recommended by commenter.
Adopted	(3) (b) Specific contact information for you to use if you have questions or need help with the notice; (f) The specific regulation on which the action is based; (g) Your appeal rights, if an appeal is available; and (h) Other information required by the state.	
<b>Original WAC # 182-524-0500 – Notice requirements</b>		
Proposed	(6) (g) You move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan; (h) You are eligible for medicare; (i) You die; (j) You begin receiving other state or federal medical assistance that provides minimum essential coverage; or (k) Your silver level QHP is closed and you do not enroll in another silver level QHP.	Removed “You are eligible for medicare.” COFA Islander Health Care eligibility is based on receipt of QHP with a tax credit. The agency does not govern the eligibility rules for QHP.
Adopted	(6) (g) Your plan ends because you move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan; (h) You die; (i) You begin receiving other state or federal medical assistance that provides minimum essential coverage; or (j) Your silver level QHP is closed and you do not enroll in another silver level QHP.	

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Web site:  
Other:

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

**The number of sections adopted on the agency's own initiative:**

New	<u>7</u>	Amended	___	Repealed	___
-----	----------	---------	-----	----------	-----

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**


New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>7</u>	Amended	___	Repealed	___

<b>Date Adopted:</b> May 17, 2019
<b>Name:</b> Wendy Barcus
<b>Title:</b> HCA Rules Coordinator

**Signature:**



**Chapter 182-524 WAC  
COFA ISLANDER HEALTH CARE**

NEW SECTION

**WAC 182-524-0100 General.** (1) Compact of Free Association (COFA) islander health care is a state-funded program administered by the health care authority (the agency) to pay the monthly premiums and out-of-pocket expenses for silver level qualified health plans for eligible COFA islanders.

(2) For the purpose of this chapter, "our," "us," and "we" refer to the agency or the agency's designee and "you" refers to the applicant for, or recipient of, COFA islander health care.

(3) You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC. For coordinated appeals with the Washington health benefit exchange, as described under WAC 182-526-0102, we treat appeals made to either the Washington health benefit exchange or us as filed on the same day. You will not have to submit any information that you have previously submitted to either the Washington health benefit exchange or us.

NEW SECTION

**WAC 182-524-0200 Definitions.** This section defines terms used in this chapter. See chapter 182-500 WAC for additional definitions.

**"Advance premium tax credit (APTC)"** - A tax credit taken in advance to lower a monthly health insurance payment (or premium).

**"COFA islander"** - A person who is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

**"COFA islander health care"** - An agency-administered program that pays the premium and out-of-pocket costs for a silver level qualified health plan for eligible COFA islanders.

**"Compact of Free Association (COFA)"** - A legal agreement between the government of the United States and the governments of the Federated States of Micronesia (U.S. Pub. L. 108-188); the Republic of the Marshall Islands (U.S. Pub. L. 108-188); and the Republic of Palau (U.S. Pub. L. 99-658).

**"Cost-sharing funds"** - Agency-provided funds for out-of-pocket costs.

**"Out-of-pocket costs"** - Copayments, coinsurance, deductibles, and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices, and other health benefits covered by the plan and rendered as in-network. Excludes premiums, balance billing amounts for out-of-network providers, and spending for noncovered services.

**"Premium cost"** - A person's premium for a qualified health plan, minus the amount of the person's advanced premium tax credit.

**"Silver level qualified health plan (QHP)"** - Silver level indicates the category of a qualified health plan (QHP) offered by the

Washington health benefit exchange (HBE). For a definition of QHP, see WAC 182-500-0090.

NEW SECTION

**WAC 182-524-0250 How to apply.** (1) COFA islanders age nineteen and older may apply for a qualified health plan (QHP) by:

(a) Completing the application via the Washington Healthplanfinder web site at [www.wahealthplanfinder.org](http://www.wahealthplanfinder.org);

(b) Calling the Washington health benefit exchange (HBE) customer support center and completing an application by telephone;

(c) Calling the COFA islander health care support line and completing an application by telephone; or

(d) Completing the application for health care coverage (HCA 18-001P), and mailing or faxing to the HBE.

(2) When you submit an application for a QHP through HBE using any of the methods listed in subsection (1) of this section, you are automatically considered for COFA islander health care.

NEW SECTION

**WAC 182-524-0300 Eligibility.** In order to be eligible for state-funded COFA islander health care, you must enroll in a silver level qualified health plan (QHP) through the Washington health benefit exchange (HBE) during open enrollment or when you qualify for a special enrollment period as described in 45 C.F.R. 155.410 and 45 C.F.R. 155.420.

(1) You are eligible for state-funded COFA islander health care administered by us no earlier than January 1, 2019, if you:

(a) Are a COFA islander;

(b) Meet the residency requirements as described under WAC 182-524-0400;

(c) Have household income, as defined under 26 C.F.R. 1.36B-1(e), under one hundred thirty-three percent of the federal poverty level (FPL);

(d) Do not qualify for another federal or state medical assistance programs under chapter 74.09 RCW, that provides minimum essential coverage;

(e) Qualify for, and accept, the maximum advance premium tax credit available under 45 C.F.R. 155.305(f); and

(f) Are enrolled in a silver level QHP.

(2) Eligibility for COFA islander health care is subject to the availability of amounts appropriated for the program.

(3) You will be terminated from COFA islander health care if you:

(a) Do not meet the eligibility criteria under subsection (1) of this section; or

(b) Request termination.

(4) You may be terminated from COFA islander health care if you:

(a) Perform an act, practice, or omission that constitutes fraud, and an insurer rescinds your QHP policy; or

(b) Use your COFA islander health care cost-sharing funds to pay for anything other than out-of-pocket costs.

(5) We will reinstate your COFA islander health care if you were:

(a) Terminated in error; or

(b) Successful in your appeal of a termination.

(6) Your COFA islander health care begins the first day of the month your silver level QHP coverage begins and you meet the other eligibility requirements as described in subsection (1) of this section.

(7) If you report a change that makes you eligible for COFA islander health care, your sponsorship begins either:

(a) The first day of the following month if the change was reported before the fifteenth of the month; or

(b) The first day of the second month if the change was reported after the fifteenth of the month.

(8) Your COFA islander health care ends the day your enrollment in a silver level QHP ends or the last day of the month your COFA islander health care eligibility ends, whichever is earlier.

#### NEW SECTION

**WAC 182-524-0400 Residency requirements.** (1) This section applies only to residency requirement for COFA islander health care.

(2) A resident is a person who currently lives in Washington and:

(a) Intends to reside here, including people without a fixed address; or

(b) Entered the state looking for a job; or

(c) Entered the state with a job commitment.

(3) You do not need to live in the state for a specific period of time to meet the requirements in subsection (2) of this section.

(4) You can be temporarily out-of-state and remain on COFA islander health care if you:

(a) Intend to return once the purpose of your absence concludes; and

(b) Meet the eligibility requirements as described under WAC 182-524-0300.

#### NEW SECTION

**WAC 182-524-0500 Notice requirements.** (1) The provisions in chapter 182-518 WAC apply to COFA islander health care, where applicable. This section applies only to notices and letters that we send regarding COFA islander health care.

(2) We send you written notices (letters) when we:

(a) Approve you for COFA islander health care;

(b) Deny you for COFA islander health care;

(c) Change or terminate your eligibility from COFA islander health care;

(d) Ask you for more information; and

(e) Reimburse you for premium costs, as determined by WAC 182-524-0600.

(3) All written notices we send to you include:

- (a) The date of the notice;
  - (b) Specific contact information for you to use if you have questions or need help with the notice;
  - (c) The nature of the action;
  - (d) The effective date of the action;
  - (e) The facts and reasons for the action;
  - (f) The specific regulation on which the action is based;
  - (g) Your appeal rights, if an appeal is available; and
  - (h) Other information required by the state.
- (4) If we request information from you, we allow at least ten calendar days for you to submit requested information. If you ask, we may allow you more time to get us the information.
- (a) If the due date falls on a weekend or a legal holiday as described in RCW 1.16.050, the due date is the next business day.
  - (b) We do not deny or terminate your eligibility when we ask you to provide information.
  - (c) If we do not receive your information by the due date, we make a determination based on all the information available.
- (5) We send a written notice to you at least ten days before taking any adverse action. The ten-day notice period starts on the day we send the notice.
- (6) We may send a notice fewer than ten days before the date of the adverse action if:
- (a) You request the action;
  - (b) You request termination;
  - (c) A change in statute, federal regulation, or administrative rule is the sole cause of the action;
  - (d) You are incarcerated and expect to remain incarcerated at least thirty days;
  - (e) Mail sent to you is returned without a forwarding address and we do not have a more current address for you;
  - (f) You move out-of-state;
  - (g) Your plan ends because you move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan;
  - (h) You die;
  - (i) You begin receiving other state or federal medical assistance that provides minimum essential coverage; or
  - (j) Your silver level QHP is closed and you do not enroll in another silver level QHP.

NEW SECTION

- WAC 182-524-0600 Payments.** (1) We pay your silver level qualified health plan (QHP) premium costs directly to the QHP carrier unless we determine good cause exists to reimburse you for the premium costs.
- (2) We pay your mandatory out-of-pocket costs separate from your premium costs through cost-sharing funds.
- (3) Cost-sharing funds are only for your out-of-pocket costs.
- (4) We will not pay for, or reimburse you for, costs not considered as out-of-pocket costs or expenses incurred by people not covered under COFA islander health care.



(5) You are responsible for ensuring the services you receive are covered under your QHP and rendered as in-network.

(6) We may stop payments of your silver level QHP premium costs and your cost-sharing funds when you:

(a) Fail to provide verification of payments through us or an agency-contracted vendor;

(b) Fail to respond to a request for information from us or an agency-contracted vendor;

(c) Misuse your cost-sharing funds by:

(i) Purchasing anything not considered an out-of-pocket cost; or

(ii) Allowing another person access to your cost-sharing funds.

(d) Are no longer eligible for COFA islander health care as described under WAC 182-524-0300.

(7) You must follow the requirements of any agency-contracted vendor that provides services enabling you to access your cost-sharing funds.

(8) We monitor payments and cost-sharing transactions under COFA islander health care.