



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: October 03, 2019

TIME: 2:51 PM

WSR 19-21-007

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 required by 42 U.S.C. Sec. 1369w, the agency is revising these sections and adding a new WAC section to implement an asset verification program to determine or redetermine the eligibility of an individual for Washington apple health.

Citation of rules affected by this order:

New: 182-503-0055

Repealed:

Amended: 182-503-0050, 182-503-0080

Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160, 42 USC Sec. 1396w

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-15-142 on July 24, 2019 (date).

Describe any changes other than editing from proposed to adopted version:

Proposed/Adopted	WAC Subsection	Reason
Original WAC #182-503-0055(2)		
Proposed	(2) This rule applies to the programs described in WAC 182-503-0510 (which includes all applications and renewals for any client and any financially responsible person for such programs), subject to:	To clarify to whom this rule applies, the agency has removed the parenthetical clause and the reference to programs described in WAC 182-503-1050.
Adopted	(2) This rule applies to any client, or those financially responsible for them, who is subject to:	
Original WAC #182-503-0055(3)(c)		
Proposed	(c) "Financially responsible person" means a person who is financially responsible as is described in WAC 182-506-0015.	To clarify to whom this rule applies, and for internal consistency, the agency revised the reference to "financially responsible person" to read "financial responsibility" and retained the cross-reference to WAC 182-506-0015.
Adopted	(c) "Financial responsibility" is described in WAC 182-506-0015.	
Original WAC #182-503-0055(4)		
Proposed	(4) You and any other financially responsible people must provide authorization for us to obtain any financial record held by a financial institution.	To clarify who may or may not provide authorization for the agency to obtain any financial record held by any financial institution.
Adopted	(4) You and any other financially responsible people must provide authorization for us to obtain any financial record held by a financial institution. The authorization may be provided by anyone described in WAC 182-503-	

	0010 (1) and (2), except in the case of an authorized representative who must be designated by the client.	
Original WAC #182-503-0080(2)(c)		
Proposed	<u>(c) You are subject to asset verification and refuse to provide authorization as described in WAC 182-503-0055.</u>	To clarify criteria for denial of application and to ensure consistency with WAC 182-503-0055.
Adopted	<u>(c) You are subject to asset verification and do not provide authorization as described in WAC 182-503-0055.</u>	

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	<u>1</u>	Amended	<u>2</u>	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	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:


Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>1</u>	Amended	<u>2</u>	Repealed	___

Date Adopted: October 3, 2019

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-503-0050 Verification of eligibility factors. ((For the purposes of this section, "we" refers to the medicaid agency or its designee and "you" refers to the applicant for, or recipient of, health care coverage.))

(1) **General rules.**

(a) We may verify the information we use to determine, redetermine, or terminate your ((Washington)) apple health eligibility.

(b) We verify the eligibility factors listed in WAC 182-503-0505(3).

(c) Before we ask you to provide records to verify an eligibility factor, we use information available from state databases, including data from the department of social and health services and the department of employment security, federal databases, or commercially available databases to verify the eligibility factor.

(d) We may require information from third parties, such as employers, landlords, and insurance companies, to verify an eligibility factor if the information we received:

(i) Cannot be verified through available data sources;

(ii) Did not verify an eligibility factor; or

(iii) Is contradictory, confusing, or outdated.

(e) We do not require you to submit a record unless it is necessary to determine or redetermine your eligibility.

(f) If you can obtain verification within three business days and we determine the verification is sufficient to confirm an eligibility factor, we base our initial eligibility decision upon that record.

(g) If we are unable to verify eligibility as described in (f) of this subsection, then we may consider third-party sources.

(h) If a fee is required to obtain a necessary record, we pay the fee directly to the holder of the record.

(i) We do not deny or delay your application if you failed to provide information to verify an eligibility factor in a particular type or form.

(j) Except for eligibility factors listed in WAC 182-503-0505 (3)(c) and (d), we accept alternative forms of verification. If you give us a reasonable explanation that confirms your eligibility, we may not require additional documentation.

(k) Once we verify an eligibility factor that will not change, we may not require additional verification. Examples include:

(i) U.S. citizenship;

(ii) Family relationships by birth;

(iii) Social Security numbers; and

(iv) Dates of birth, death, marriage, dissolution of marriage, or legal separation.

(1) If we cannot verify your immigration status and you are otherwise eligible for Washington apple health, we approve coverage and give additional time as needed to verify your immigration status.

(2) **Submission timelines.**

(a) We allow at least ten calendar days for you to submit requested information.

(b) If you request more time to provide information, we allow the time requested.

(c) If the tenth day falls on a weekend or a legal holiday as described in RCW 1.16.050, the due date is the next business day.

(d) We do not deny or terminate your eligibility when we give you more time to provide information.

(e) If we do not receive your information by the due date, we make a determination based on all the information available.

(3) Notice requirements.

(a) When we need more information from you to determine your eligibility for ((Washington)) apple health coverage, we send all notices according to the requirements of WAC 182-518-0015.

(b) If we cannot determine you are eligible, we send you a denial or termination notice including information on when we reconsider a denied application under WAC 182-503-0080.

(4) **Equal access and limited-English proficiency services.** If you are eligible for equal access services under WAC 182-503-0120 or limited-English proficiency services under WAC 182-503-0110, we provide legally sufficient support services.

(5) **Eligibility factors for nonmodified adjusted gross income (MAGI)-based programs.** If you apply for a non-MAGI program under WAC 182-503-0510(3), we verify the factors in WAC 182-503-0505(3). In addition, we verify:

(a) Household composition, if spousal or dependent deeming under chapter 182-512 WAC or spousal or dependent allowance under chapters 182-513 and 182-515 WAC applies;

(b) Income and income deductions;

(c) Resources, including:

(i) Trusts, annuities, ((and)) life estates, and promissory notes under chapter ((s 182-512, 182-513, and)) 182-516 WAC;

(ii) Real property transactions; and

(iii) Financial records, as defined in WAC 182-503-0055, held by financial institutions.

(d) Medical expenses required to meet any spenddown liability under WAC 182-519-0110;

(e) All post-eligibility deductions used to determine cost of care for clients eligible for long-term services and supports under chapters 182-513 and 182-515 WAC;

(f) Transfers of assets under chapter 182-513 WAC and WAC 182-503-0055 when the program is subject to transfer of assets limitations;

(g) Shelter costs for long-term care cases where spousal and dependent allowances apply;

(h) Blindness or disability, if you claim either; and

(i) Social Security number for a community spouse if needed when you apply for long-term care.

(6) Verification for MAGI-based programs.

(a) After we approve your coverage based on your self-attestation, we may conduct a post-eligibility review to verify your self-attested information.

(b) When conducting a post-eligibility review, we attempt to verify eligibility factors using your self-attested information available to us through state, federal, and commercially available data sources, or other third parties, before requiring you to provide information.

(c) You may be required to provide additional information if:

(i) We cannot verify an eligibility factor through other data sources listed in subsection (b) of this section; or

(ii) The information received from the data source is not reasonably compatible with your self-attestation.

(7) **Reapplication following post-eligibility review.** If your eligibility for MAGI-based ((Washington)) apple health terminates because

of a post-eligibility review and you reapply, we may request verification of eligibility factors prior to determining eligibility.

NEW SECTION

WAC 182-503-0055 Asset verification system. (1) This rule implements the asset verification system (AVS) outlined in section 1940 of the Social Security Act.

(2) This rule applies to any client, or those financially responsible for them, who is subject to:

(a) The disclosure of resources, as defined in WAC 182-512-0200, to determine eligibility; or

(b) Provisions related to the transfer of assets, as described in WAC 182-513-1363.

(3) For the purposes of this section:

(a) "Financial institution" means the same as defined in section 1101 of the Right to Financial Privacy Act, and may include, but is not limited to:

(i) Banks; or

(ii) Credit unions.

(b) "Financial record" means any record held by a financial institution pertaining to a customer's relationship with the financial institution; and

(c) "Financial responsibility" is described in WAC 182-506-0015.

(4) You and any other financially responsible people must provide authorization for us to obtain any financial record held by a financial institution. The authorization may be provided by anyone described in WAC 182-503-0010 (1) and (2), except in the case of an authorized representative who must be designated by the client.

(5) The authorization, provided under subsection (4) of this section, will remain in effect until one of the following occurs:

(a) Your application for apple health is denied;

(b) Your eligibility for apple health is terminated; or

(c) You revoke your authorization in a written notification to us.

(6) We will:

(a) Use the authorization provided under subsection (4) of this section to electronically verify your financial records and those of any other financially responsible person to determine or renew your eligibility for apple health; or

(b) Inform you in writing at the time of application and renewal that we will obtain and use information available through AVS to determine your eligibility for apple health.

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-503-0080 Washington apple health—Application denials and withdrawals. (1) We follow the rules about notices and letters in

chapter 182-518 WAC. We follow the rules about timelines in WAC 182-503-0060.

(2) We deny your application for (~~Washington~~) apple health (~~(WAH)~~) coverage when:

(a) You tell us either orally or in writing to withdraw your request for coverage; or

(b) Based on all information we have received from you and other sources within the time frames stated in WAC 182-503-0060, including any extra time given at your request or to accommodate a disability or limited-English proficiency:

(i) We are unable to determine that you are eligible; or

(ii) We determine that you are not eligible.

(c) You are subject to asset verification and do not provide authorization as described in WAC 182-503-0055.

(3) We send you a written notice explaining why we denied your application (per chapter 182-518 WAC).

(4) We reconsider our decision to deny your (~~WAH~~) apple health coverage without a new application from you when:

(a) We receive the information that we need to decide if you are eligible within thirty days of the date on the denial notice; (~~or~~)

(b) You give us authorization to verify your assets as described in WAC 182-503-0055 within thirty days of the date on the denial notice;

(c) You request a hearing within ninety days of the date on the denial letter and an administrative law judge (ALJ) or HCA review judge decides our denial was wrong (per chapter 182-526 WAC).

(5) If you disagree with our decision, you can ask for a hearing. If we denied your application because we (~~don't~~) do not have enough information, the ALJ will consider the information we already have and (~~anymore~~) any more information you give us. The ALJ does not consider the previous absence of information or failure to respond in determining if you are eligible.