



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 08, 2020

TIME: 10:31 AM

WSR 21-01-044

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-21-013 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) 182-503-0090, Washington apple health – Exceptions to rule

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 26, 2021	10:00 AM	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the agency will not provide a physical location for this hearing. This promotes social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead.	To attend the virtual public hearing, you must register at the following link: https://attendee.gotowebinar.com/register/5895859935949871883 Webinar ID: 563-710-843 After registering, you will receive a confirmation email containing the information about joining the webinar.

Date of intended adoption: Not sooner than January 27, 2021 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: HCA Rules Coordinator

Address: PO Box 42716, Olympia WA 98504-2716

Email: arc@hca.wa.gov

Fax: (360) 586-9727

Other:

By (date) January 26, 2021

Assistance for persons with disabilities:

Contact Amber Lougheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: amber.lougheed@hca.wa.gov

Other:

By (date) January 8, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending WAC 182-503-0090 to specify the Department of Social and Health Services administrations responsible for processing exceptions to rule related to long-term services and supports programs. The agency is also making nonsubstantive changes for consistency with other agency rules.

Reasons supporting proposal: See purpose

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW 41.05.021, 41.05.160

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Health Care Authority

Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Brian Jensen	PO Box 42716, Olympia WA 98504-2716	360-725-0815
Implementation:	Mark Westenhaver	PO Box 45534, Olympia, WA 98504-5534	360-725-1324
Enforcement:	Mark Westenhaver	PO Box 45534, Olympia, WA 98504-5534	360-725-1324

Is a school district fiscal impact statement required under RCW 28A.305.135?

Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

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

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:

TTY:
Email:
Other:

No: Please explain: RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. The proposed rule pertains to client program eligibility and does not impose any costs on businesses.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

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

Date: December 8, 2020

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-503-0090 Washington apple health—Exceptions to rule.

(1) ~~((An individual))~~ A client or client's representative may request an exception to a Washington apple health financial eligibility rule in Title 182 WAC. ~~((An individual must request an exception to rule (ETR) within ninety calendar days of the agency action with which the individual disagrees. The individual or the individual's representative may))~~ The request for an exception to rule (ETR) may be submitted orally or in writing. The request must:

(a) Be received within ninety calendar days of the agency action with which the client disagrees or wants waived;

(b) Identify the rule for which an exception is being requested;

~~((b))~~ (c) State what the ~~((individual))~~ client is requesting;
and

~~((e))~~ (d) Describe how the request meets subsection (2) of this section.

(2) The agency director or designee has the discretion to grant an ETR if ~~((he or she))~~ they determine~~((s))~~ that the ~~((individual's))~~ client's circumstances satisfy the conditions below:

(a) The exception would not contradict a specific provision of federal or state law; and

(b) The ~~((individual's))~~ client's situation differs from the majority; and

(c) It is in the interest of the overall economy and the ~~((individual's))~~ client's welfare, and:

(i) It increases opportunity for the ~~((individual))~~ client to function effectively; or

(ii) The ~~((individual))~~ client has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment.

(3) ~~((Individuals cannot appeal))~~ A client does not have a right to an administrative hearing on ETR decisions under chapter 182-526 WAC.

(4) ~~((An individual))~~ A client is mailed a decision in writing within ten calendar days when agency staff:

(a) Approve or deny an ETR request; or

(b) Request more information.

(5) If the ETR is approved, the notice includes information on ~~((the approval period))~~ what is approved and for what time frame.

(6) The agency designates staff at the aging and ~~((disability services))~~ long-term support administration ~~((ADSA))~~ (ALISA) and the developmental disabilities administration (DDA) to process all ETRs specifically relating to long-term ~~((care))~~ services and supports programs described in Title 182 WAC.

(7) This section does not apply to requests that the agency pay for noncovered medical or dental services or related equipment. WAC 182-501-0160 applies to such requests.