



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

**Agency:** Health Care Authority, Washington Apple Health

- Preproposal Statement of Inquiry was filed as WSR 15-09-085; 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).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:**

WAC 182-500-0020, 182-500-0050, 182-500-0100 Medical Definitions

**Hearing location(s):**

Health Care Authority  
Cherry Street Plaza Building; Conf Rm  
626 - 8<sup>th</sup> Avenue, Olympia WA 98504

Metered public parking is available street side around building. A map is available at:  
[http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf)  
or directions can be obtained by calling: 360-725-1000

Date: **August 4, 2015** Time: **10:00 a.m.**

**Date of intended adoption:** Not sooner than August 5, 2015  
(Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: HCA Rules Coordinator  
Address: PO Box 45504, Olympia WA, 98504-5504  
Delivery: 626 – 8<sup>th</sup> Avenue, Olympia WA 98504  
e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov)  
fax (360)586-9727

by **5:00pm August 4, 2015**

**Assistance for persons with disabilities:** Contact

Kelly Richters, by July 28, 2015

TTY (800) 848-5429 or (360) 725-1307 or e-mail:  
[kelly.richters@hca.wa.gov](mailto:kelly.richters@hca.wa.gov)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The agency is adding the following terms to the list of general definitions: (1) "Institutional Review Board" (2) "Center of Excellence" and (3) "six months."

**Reasons supporting proposal:**

These terms are used in sections across Title 182 WAC and are appropriate to be added to the agency's general definitions chapter.

**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:

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: June 24, 2015**

**TIME: 2:40 PM**

**WSR 15-14-047**

**DATE**  
June 24, 2015

**NAME**  
Wendy Barcus

**SIGNATURE**

**TITLE**  
HCA Rules Coordinator

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

None

**Name of proponent:** Health Care Authority

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Sean Sullivan	PO Box 42716, Olympia WA 98504-2716	(360)725-1344
Implementation.... Sean Sullivan	PO Box 42716, Olympia WA 98504-2716	(360)725-1344
Enforcement..... Sean Sullivan	PO Box 42716, Olympia WA 98504-2716	(360)725-1344

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No. Explain why no statement was prepared.

The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

**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 ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

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.

**WAC 182-500-0020 ((Medical assistance)) Washington apple health definitions—C. "Caretaker relative"** means a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care, and who is one of the following:

(1) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.

(2) The spouse of such parent or relative (including same sex marriage or domestic partner), even after the marriage is terminated by death or divorce.

(3) Other relatives including relatives of half-blood, first cousins once removed, ~~((persons))~~ people of earlier generations (as shown by the prefixes of great, great-great, or great-great-great), and natural parents whose parental rights were terminated by a court order.

**"Carrier"** means an organization that contracts with the federal government to process claims under medicare Part B.

**"Categorically needy (CN) or categorically needy program (CNP)"** is the state and federally funded health care program established under Title XIX of the Social Security Act for ~~((persons))~~ people within medicaid-eligible categories, whose income and/or resources are at or below set standards.

**"Categorically needy income level (CNIL)"** is the standard used by the agency to determine eligibility under a categorically needy program.

**"Categorically needy (CN) scope of care"** is the range of health care services included within the scope of service categories described in WAC 182-501-0060 available to ~~((persons))~~ people eligible to receive benefits under a CN program. Some state-funded health care programs provide CN scope of care.

**"Center of excellence"** - A hospital, medical center, or other health care provider that meets or exceeds standards set by the agency for specific treatments or specialty care.

**"Centers for Medicare and Medicaid Services (CMS)"** ~~((means the agency within the federal department of health and human services (DHHS) with oversight responsibility for the medicare and medicaid programs))~~ - The federal agency that runs the medicare, medicaid, and children's health insurance programs, and the federally facilitated marketplace.

**"Children's health program or children's health care programs"**  
See "Apple health for kids."

**"Community spouse."** See "spouse" in WAC 182-500-100.

**"Cost-sharing"** means any expenditure required by or on behalf of an enrollee with respect to essential health benefits; such term includes deductibles, coinsurance, copayments, or similar charges, but excludes premiums, balance billing amounts for nonnetwork providers, and spending for noncovered services.

**"Cost-sharing reductions"** means reductions in cost-sharing for an eligible person enrolled in a silver level plan in the health benefit exchange or for a person who is an American Indian or Alaska native enrolled in a qualified health plan (QHP) in the exchange.

**"Couple."** See "spouse" in WAC 182-500-0100.

**"Covered service"** is a health care service contained within a "service category" that is included in a (~~medical assistance~~) Washington apple health (WAH) benefits package described in WAC 182-501-0060. For conditions of payment, see WAC 182-501-0050(5). A noncovered service is a specific health care service (for example, cosmetic surgery), contained within a service category that is included in a (~~medical assistance~~) WAH benefits package, for which the agency or the agency's designee requires an approved exception to rule (ETR) (see WAC 182-501-0160). A noncovered service is not an excluded service (see WAC 182-501-0060).

**"Creditable coverage"** means most types of public and private health coverage, except Indian health services, that provide access to physicians, hospitals, laboratory services, and radiology services. This term applies to the coverage whether or not the coverage is equivalent to that offered under premium-based programs included in Washington apple health (WAH). Creditable coverage is described in 42 U.S.C. 300gg-3 (c)(1).

**WAC 182-500-0050** (~~(Medical assistance)~~) Washington apple health (WAH) definitions—I. "Ineligible spouse" see "spouse" in WAC (~~(388-500-0100)~~) 182-500-0100.

**"Institution"** means an entity that furnishes (in single or multiple facilities) food, shelter, and some treatment or services to four or more (~~(persons)~~) people unrelated to the proprietor. Eligibility for (~~(medical assistance)~~) Washington apple health (WAH) program may vary depending upon the type of institution in which an individual resides. For the purposes of (~~(medical assistance)~~) WAH programs, "institution" includes all (~~(of)~~) the following:

(1) **"Institution for mental diseases (IMD)"** - A hospital, nursing facility, or other institution of more than sixteen beds that is primarily engaged in providing diagnosis, treatment or care of (~~(persons)~~) people with mental diseases, including medical attention, nursing care and related services. An IMD may include inpatient chemical dependency facilities of more than sixteen beds which provide residential treatment for alcohol and substance abuse.

(2) **"Intermediate care facility for the mentally retarded (ICF/MR)"** - An institution or distinct part of an institution that is:

(a) Defined in 42 C.F.R. 440.150;

(b) Certified to provide ICF/MR services under 42 C.F.R. 483, Subpart I; and

(c) Primarily for the diagnosis, treatment, or rehabilitation for (~~(persons)~~) people with mental retardation or a related condition (~~((see WAC 388-823-0700 for information about what qualifies as a "related condition"))~~)).

(3) **"Medical institution"** - An entity that is organized to provide medical care, including nursing and convalescent care. The terms "medical facility" and "medical institution" are sometimes used interchangeably throughout Title (~~(388)~~) 182 WAC.

(a) To meet the definition of medical institution, the entity must:

(i) Be licensed as a medical institution under state law;

(ii) Provide medical care, with the necessary professional personnel, equipment, and facilities to manage the health needs of the patient on a continuing basis (~~(in accordance with)~~) under acceptable standards; and

(iii) Include adequate physician and nursing care.

(b) Medical institutions include (~~(all of the following)~~):

(i) "Hospice care center" - An entity licensed by the department of health (DOH) to provide hospice services. Hospice care centers must be medicare-certified, and approved by the agency or the agency's designee to be considered a medical institution.

(ii) "Hospital" - Defined in WAC (~~(388-500-0045)~~) 182-500-0045.

(iii) "Nursing facility (NF)" - An entity certified to provide skilled nursing care and long-term care services to medicaid recipients under (~~(Section 1919(a) of the))~~ Social Security Act Sec. 1919(a), 42 U.S.C. Sec. 1396r. Nursing facilities that may become certified include nursing homes licensed under chapter 18.51 RCW, and nursing facility units within hospitals licensed by (~~(the department of health (DOH))~~) DOH(+) under chapter 70.41 RCW. This includes the nursing facility section of a state veteran's facility.

(iv) "Psychiatric hospital" - An institution, or a psychiatric unit located in a hospital, licensed as a hospital (~~(in accordance with)~~) under applicable Washington state laws and rules, that is primarily engaged to provide psychiatric services for the diagnosis and treatment of mentally ill (~~(persons)~~) people under the supervision of a physician.

(v) "Psychiatric residential treatment facility (PRTF)" - A non-hospital residential treatment center licensed by (~~department of health~~) DOH, and certified by the agency or the agency's designee to provide psychiatric inpatient services to medicaid-eligible individuals age twenty-one (~~(years of age)~~) and younger. A PRTF must be accredited by the Joint Commission on Accreditation of Health care Organizations (JCAHO) or any other accrediting organization with comparable standards recognized by Washington state. A PRTF must meet the requirements in 42 C.F.R. 483, Subpart G, regarding the use of restraint and seclusion.

(vi) "Residential habilitation center (RHC)" - A residence operated by the state under chapter 71A.20 RCW that serves individuals who have exceptional care and treatment needs due to their developmental disabilities by providing residential care designed to develop individual capacities to their optimum. RHCs provide residential care and may be certified to provide ICF/MR services and (~~(to provide))~~ nursing facility services.

(c) Medical institutions do not include entities licensed by the agency or the agency's designee as adult family homes (AFHs) and boarding homes. AFHs and boarding homes include assisted living facilities, adult residential centers, enhanced adult residential centers, and developmental disability group homes.

(4) "**Public institution**" means an entity that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(a) Public institutions include (~~(all of the following))~~):

(i) Correctional facility - An entity such as a state penitentiary or county jail, (includes placement in a work release program or outside of the institution, including home detention).

(ii) Eastern and Western State mental hospitals. (Medicaid coverage for these institutions is limited to individuals age twenty-one and younger, and individuals age sixty-five and older.)

(iii) Certain facilities administered by Washington state's department of veteran's affairs (see (b) of this subsection for facilities that are not considered public institutions).

(b) Public institutions do not include intermediate care facilities, entities that meet the definition of medical institution (such as Harborview Medical Center and University of Washington Medical Center), or facilities in Retsil, Orting, and Spokane that are administered by the department of veteran's affairs and licensed as nursing facilities.

"**Institution for mental diseases (IMD)**" see "institution" in this section.

"Institutional review board" - A board or committee responsible for reviewing research protocols and determining whether:

(1) Risks to subjects are minimized;

(2) Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result;

(3) Selection of subjects is equitable;

(4) Informed consent will be sought from each prospective subject or the subject's legally authorized representative;

(5) Informed consent will be appropriately documented;

(6) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects;

(7) When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data; and

(8) When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

**"Institutionalized spouse"** see "spouse" in WAC ((~~388-500-0100~~)) 182-500-0100.

**"Intermediate care facility for the mentally retarded (ICF/MR)"** see "institution" in this section.

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

**WAC 182-500-0100 ((~~Medical assistance~~)) Washington apple health (WAH) definitions—S. "Self-attestation" means a person's written, verbal, or electronic declaration of his or her income and/or circumstances made under penalty of perjury, confirming a statement to be true. (See also "attested income.")**

**"Six months" means one hundred eighty calendar days.**

**"Spendedown" is a term used in the medically needy (MN) program and means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the agency. See WAC 182-519-0110.**

**"Spouse" means a person who is legally married to another person. Washington state recognizes other states' determinations of legal and common-law marriages between two ((~~persons~~)) people.**

(1) **"Community spouse" means a person who:**

(a) Does not reside in a medical institution; and

(b) Is legally married to a client who resides in a medical institution or receives services from a home and community-based waiver program. A person is considered married if not divorced, even when physically or legally separated from his or her spouse.

(2) **"Eligible spouse" means an aged, blind or disabled husband or wife of an SSI-eligible person, who lives with the SSI-eligible person, and is also eligible for SSI.**

(3) **"Essential spouse" means a husband or wife whose needs were taken into account in determining old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) for a client in December 1973, who continues to live in the home and remains married to the client.**

(4) **"Ineligible spouse" means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person, and who has not applied or is not eligible to receive SSI.**

(5) **"Institutionalized spouse" means a legally married person who has attained institutional status as described in chapter 182-513 WAC,**

and receives services in a medical institution or from a home or community-based waiver program described in chapter 182-515 WAC. A person is considered married if not divorced, even when physically or legally separated from his or her spouse.

(6) **"Nonapplying spouse"** means an SSI-related person's husband or wife, who has not applied for ~~((medical assistance))~~ Washington apple health.

**"SSI-related"** means an aged, blind or disabled person not receiving an SSI cash grant.

**"State supplemental payment (SSP)"** is a state-funded cash benefit for certain individuals who are either recipients of the Title XVI supplemental security income (SSI) program or who are clients of the division of developmental disabilities. The SSP allotment for Washington state is a fixed amount of twenty-eight million nine hundred thousand dollars and must be shared between all individuals who fall into one of the groups listed below. The amount of the SSP may vary each year depending on the number of individuals who qualify. The following groups are eligible for an SSP:

(1) Mandatory SSP group—SSP made to a mandatory income level client (MIL) who was grandfathered into the SSI program. To be eligible in this group, an individual must have been receiving cash assistance in December 1973 under the department of social and health services former old age assistance program or aid to the blind and disability assistance. Individuals in this group receive an SSP to bring their income to the level they received ~~((prior to))~~ before the implementation of the SSI program in 1973.

(2) Optional SSP group—SSP made to any of the following:

(a) An individual who receives SSI and has an ineligible spouse.

(b) An individual who receives SSI based on meeting the age criteria of sixty-five or older.

(c) An individual who receives SSI based on blindness.

(d) An individual who has been determined eligible for SSP by the division of developmental disabilities.

(e) An individual who is eligible for SSI as a foster child as described in WAC 388-474-0012.

**"Supplemental security income (SSI) program (Title XVI)"** is the federal grant program for aged, blind, and disabled ~~((persons))~~ people, established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).