



# 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 15-11-024; 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:**

Chapter 182-517 WAC Medicare-related medical eligibility.  
WAC 182-502-0110 Conditions of payment – Medicare deductible and coinsurance.

**Hearing location:**

Health Care Authority  
Cherry Street Plaza Building; Sue Crystal Conf Rm 106A  
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: **May 24, 2016** Time: **10:00 a.m.**

**Date of intended adoption:** Not sooner than May 25, 2016  
(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 on May 24, 2016**

**Assistance for persons with disabilities:** Contact Amber Lougheed by May 20, 2016  
e-mail: [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov) or (360) 725-1349  
TTY (800) 848-5429 or 711

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

Amendments to chapter 182-517 clarify requirements for Medicare savings programs and state-funded buy-in programs.

- WACs 182-517-0310 and 182-517-0320 were repealed and the content was moved to 182-517-0100 and 182-517-0300 as appropriate.
- WACs 182-517-0100 and 182-517-0300 were renamed and content from the chapter was reorganized to more clearly distinguish between requirements for federal Medicare savings programs and state-funded Medicare buy-in programs.

Amendments to WAC 182-502-0110 streamline language and clarify how the agency pays deductible and coinsurance for QMB and non-QMB clients.

**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:

**DATE**  
April 8, 2016

**NAME**  
Wendy Barcus

**SIGNATURE**

**TITLE**  
HCA Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: April 08, 2016**

**TIME: 4:24 PM**

**WSR 16-09-012**

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

**Name of proponent:** Health Care Authority

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting.....Chantelle Diaz	PO Box 42716, Olympia WA, 98504-2716	(360) 725-1842
Implementation....Amy Johnson	PO Box 45534, Olympia, WA 98504-5534	(360) 725-1329
Enforcement.....Amy Johnson	PO Box 45534, Olympia, WA 98504-5534	(360) 725-1329

**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 182-502-0110 Conditions of payment—Medicare deductible and coinsurance.** (1) The following people are eligible for benefits under this section:

(a) Dual-eligible clients enrolled in categorically needy Washington apple health programs;

(b) Dual-eligible clients enrolled in medically needy Washington apple health programs; or

(c) Clients enrolled in the qualified medicare beneficiary (QMB) program.

~~(2) The ((department)) agency pays the medicare Part A and B deductible and coinsurance amounts for ((a client participating in Parts A and/or B of medicare (Title XVIII of the Social Security Act) when the:~~

~~(a) Total reimbursement to the provider from medicare and the department does not exceed the rate in the department's fee schedule)) an eligible person under subsection (1) of this section:~~

~~(a) Up to the published or calculated medicaid-only rate; and~~

~~(b) If the provider accepts assignment for medicare payment.~~

~~((2) The department pays the deductible and coinsurance amounts for a client who has Part A of medicare. If the client:~~

~~(a) Has not exhausted lifetime reserve days, the department considers the medicare diagnostic related group (DRG) as payment in full; or~~

~~(b) Has exhausted lifetime reserve days during an inpatient hospital stay, the department considers the medicare DRG as payment in full until the medicaid outlier threshold is reached. After the medicaid outlier threshold is reached, the department pays an amount based on the policy described in the Title XIX state plan.))~~

~~(3) If a medicare Part A recipient has remaining lifetime reserve days, the agency pays the deductible and coinsurance amounts up to the allowed amount as calculated by the agency.~~

~~(4) If a medicare Part A recipient has exhausted lifetime reserve days during an inpatient hospital stay, the agency pays the deductible and coinsurance amounts up to the agency-calculated allowed amount minus any payment made by medicare, and any payment made by the agency, up to the outlier threshold. Once the outlier threshold is reached, the agency pays according to WAC 182-550-3700.~~

~~(5) If medicare and medicaid cover the service, the ((department)) agency pays ((only)) the deductible ((and/or)) and coinsurance up to medicare or medicaid's allowed amount, whichever is less.~~

~~(6) If only medicare ((and not medicaid)) covers the service, the ((department)) agency pays ((only)) the deductible ((and/or)) and coinsurance up to ((medicare's allowed amount.~~

~~(4) The department bases its outlier policy on the methodology described in the department's Title XIX state plan, methods, and standards used for establishing payment rates for hospital inpatient services.~~

~~(5) The department pays, according to department rules and billing instructions, for medicaid covered services when the client exhausts medicare benefits)) the agency's allowed amount established for a QMB client, and at zero for a non-QMB client.~~

(7) If a client exhausts medicare benefits, the agency pays for medicaid-covered services under Title 182 WAC and the agency's billing instructions.

**WAC 182-517-0100 Federal medicare savings programs**~~(Monthly income standards)~~. ~~((1) The income standards for medicare savings programs change each year based on the federal poverty level (FPL) published yearly by the federal government in the Federal Register at <http://aspe.hhs.gov/poverty/index.shtml>. The qualified medicare beneficiary (QMB) program income standard is up to one hundred percent of the FPL.~~

~~(2) The specified low-income medicare beneficiary (SLMB) program income standard is over one hundred percent of FPL, but not more than one hundred twenty percent of FPL.~~

~~(3) The qualified individual (QI-1) program income standard is over one hundred twenty percent of FPL, but not more than one hundred thirty five percent of FPL.~~

~~(4) The qualified disabled working individual (QDWI) program income standard is two hundred percent of FPL.)~~ (1) Available programs. The agency offers eligible clients the following medicare savings programs (MSPs):

(a) The qualified medicare beneficiary (QMB) program;

(b) The specified low-income medicare beneficiary (SLMB) program;

(c) The qualified individual (QI-1) program; and

(d) The qualified disabled and working individuals (QDWI) program.

(2) Eligibility.

(a) To be eligible for an MSP a person must:

(i) Be entitled to medicare Part A;

(ii) Be a U.S. citizen, U.S. national, qualified American Indian born abroad, or a qualified alien who satisfies or is exempt from the five-year bar under WAC 182-503-0535;

(iii) Not exceed the income limits in (c) of this subsection; and

(iv) Not exceed the resource limits in (c) of this subsection.

(b) To be eligible for QDWI, a person must be under age sixty-five.

(c) Except as provided under (d) and (e) of this subsection, MSPs follow the income, resource, and deeming rules for SSI-related persons in chapter 182-512 WAC.

(d) Income limits.

(i) If a person's countable income is less than or equal to the federal poverty level (FPL), the person may qualify for the QMB program.

(ii) If a person's countable income is over the FPL, but does not exceed one hundred twenty percent of the FPL, the person may qualify for the SLMB program.

(iii) If a person's countable income is over one hundred twenty percent of the FPL, but does not exceed one hundred thirty-five percent of the FPL, the person may qualify for the QI-1 program.

(iv) If a person's countable income is over one hundred thirty-five percent of the FPL, but does not exceed two hundred percent of the FPL, the person may qualify for the QDWI program.

(e) Resource limits.

(i) The resource limit for the QMB, SLMB, and QI-1 programs may be found at <http://www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx>.

(ii) The resource limit for the QDWI program is \$4,000 for a single person and \$6,000 for a married couple.

(f) When calculating income under this section:

(i) The agency subtracts client participation from a long-term care client's countable income under WAC 182-513-1380, 182-515-1509, or 182-515-1514.

(ii) The agency counts the annual Social Security cost-of-living increase beginning April 1st each year.

(g) Relationship of MSPs to other medicaid programs:

(i) A client eligible for another medicaid program may also receive QMB or SLMB coverage.

(ii) A client eligible for another medicaid program is not eligible for QI-1 or QDWI.

(3) Covered costs.

(a) The QMB program pays:

(i) Medicare Part A and Part B premiums using the start date in WAC 182-504-0025; and

(ii) Medicare coinsurance, deductibles, and copayments for Part A, Part B, and medicare advantage Part C, subject to the limitations in WAC 182-502-0110.

(b) If the client is eligible for both SLMB and another medicaid program:

(i) The SLMB program pays the Part B premiums using the start date in WAC 182-504-0025; and

(ii) The medicaid program covers medicare Part A and Part B coinsurance and deductibles under WAC 182-502-0110.

(c) If the client is only eligible for SLMB, the SLMB program covers medicare Part B premiums using the start date in WAC 182-504-0025.

(d) The QI-1 program pays medicare Part B premiums using the start date in WAC 182-504-0025 until the agency's federal funding allotment is spent. The agency resumes QI-1 benefit payments the beginning of the next calendar year.

(e) The QDWI program covers medicare Part A premiums using the start date in WAC 182-504-0025.

(4) Medicaid eligibility may affect MSP eligibility:

(a) QMB and SLMB clients may receive medicaid and still be eligible to receive QMB or SLMB benefits.

(b) QI-1 and QDWI clients who begin receiving medicaid are no longer eligible for QI-1 or QDWI benefits, but may be eligible for the state-funded medicare buy-in program under WAC 182-517-0300.

(5) The FPL standards are found at: <http://www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx>.

(6) A person who disagrees with agency action under this section may request an administrative hearing under chapter 182-526 WAC.

AMENDATORY SECTION (Amending WSR 12-13-056, filed 6/15/12, effective 7/1/12)

**WAC 182-517-0300 ((Federal medicare savings and)) State-funded medicare buy-in programs. ((1) Federal medicare savings and state-funded medicare buy-in programs help clients pay some of the costs that medicare does not cover under WAC 388-517-0320 (for program eligibility, see WAC 388-517-0310).**

~~(2) The department offers the following medicare savings programs to eligible clients:~~

- ~~(a) Qualified medicare beneficiary (QMB);~~
- ~~(b) Specified low income medicare beneficiary (SLMB);~~
- ~~(c) Qualified individual (QI-1); and~~
- ~~(d) Qualified disabled working individual (QDWI).~~

~~(3) The department offers the state funded medicare buy in program for clients who receive medicaid but do not qualify for the federal medicare savings programs.)~~ (1) A person is eligible for the state-funded medicare buy-in program (SBIP) if the person:

- (a) Is entitled to or receiving medicare;
- (b) Is not eligible for a federal medicare savings program under WAC 182-517-0100; and

(c) Is receiving benefits under:

- (i) The categorically needy (CN) program; or
- (ii) The medically needy (MN) program;

(2) The SBIP begins the second month after the month a person meets eligibility requirements.

(3) The SBIP pays only medicare Part B premiums.

(4) The agency pays medicare deductibles and coinsurance under WAC 182-502-0110.

(5) A person who disagrees with agency action under this section may request an administrative hearing under chapter 182-526 WAC.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                  |   |
|------------------|---|
| WAC 182-517-0310 | Eligibility for federal medicare savings and state-funded medicare buy-in programs. |
| WAC 182-517-0320 | Medicare savings and state-funded medicare buy-in programs cover some client costs. |