



# RULE-MAKING ORDER

**CR-103E (July 2011)**  
**(Implements RCW 34.05.350)**

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

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

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

- Yes
  - No
- If Yes, explain:

**Purpose:**

The agency is amending this rule to ensure that clients who receive Cost of Living Adjustments (COLAs) to their Social Security benefits remain eligible for the Kidney Disease Program (KDP). In some cases, a COLA puts clients slightly above the KDP income limit. This amendment will exempt Social Security benefit COLAs and the first \$20 of monthly unearned income from KDP eligibility, consistent with SSI-related medical rules.

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

Repealed:  
 Amended: 182-540-022  
 Suspended:

**Statutory authority for adoption:** RCW 41.05.021, 41.05.160

**Other authority:**

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

**Reasons for this finding:** This emergency rule is necessary to ensure that clients are not removed from the KDP if they receive a COLA that would otherwise put them above the income limit. The current emergency rule filed under WSR 15-13-052 is expiring before the permanent rules take effect. The permanent rules were filed on October 8, 2015 under WSR 15-21-001. This emergency filing covers the remaining period before the permanent rule takes effect in November.

**Date adopted:** October 12, 2015

**NAME (TYPE OR PRINT)**

Wendy Barcus

**SIGNATURE**

**TITLE**

HCA Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: October 12, 2015**

**TIME: 9:00 AM**

**WSR 15-21-013**

(COMPLETE REVERSE SIDE)

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	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 in 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	<u>1</u>	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	<u>1</u>	Repealed	_____

**WAC 182-540-022 Kidney disease program (KDP)—Income eligibility.** (1) A household must have (~~net~~) countable gross income at or below two hundred twenty percent of the federal poverty level (~~in order~~) for a person to be eligible for the kidney disease program (KDP). See WAC 182-540-021 to determine who must be included in the household and whose income counts.

(2) The KDP contractor (~~makes the determination of~~) determines the household's income based upon the information reported in the KDP application and may request additional verification if the information in the application is not clear. A KDP applicant must provide verification of all household income (and expenses, if self-employed) to the KDP contractor (~~in order~~) for eligibility for KDP to be determined.

(3) The following income is not counted:

(a) The first twenty dollars per month of unearned income for the entire household;

(b) Cost-of-living adjustments (COLAs) to Social Security disability benefits and supplemental security income (SSI) benefits;

(c) The medicaid agency also disregards Social Security COLAs received by the applicant's spouse and other family members included in the household size;

(d) Fifty percent of the gross earned income of any person included in the household size;

(~~(b)~~) (e) Income received by a dependent child age eighteen (~~years of age and~~) or younger who is not included in the household size;

(~~(e)~~) (f) Any income source which is specifically excluded by federal law.

(4) The agency follows rules for SSI-related (~~medicaid~~) medical described in chapter 182-512 WAC to determine what income types count when determining eligibility for KDP.