



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Health Care Authority, Washington Apple Health

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) July 1, 2017 (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:

The agency is adopting new WAC 182-560-100 to implement the Achieving a Better Life Experience (ABLE) Act. An ABLE account allows clients who are blind or have a disability to save funds in tax-advantaged accounts for their disability-related expenses. This section clarifies how ABLE accounts are counted when determining eligibility and which funds held in an ABLE account are subject to estate recovery.

Citation of existing rules affected by this order:

- Repealed:
- Amended:
- Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Other authority: Engrossed Substitute House Bill (ESHB) 2323, Chapter 39, Laws of 2016, 64th Legislature, 2016 Regular Session; Substitute Senate Bill (SSB) 6210, 64th Legislature, 2016 Regular Session; and HR 647 – Achieving a Better Life Experience (ABLE) Act of 2014

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-08-086 on April 4, 2017.

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted: May 24, 2017

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: May 24, 2017

TIME: 10:03 AM

WSR 17-11-135

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	<u>1</u>	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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 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	_____	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	_____	Repealed	_____

Chapter 182-560 WAC
ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACT

NEW SECTION

WAC 182-560-100 Achieving a Better Life Experience (ABLE) Act.

This rule describes a qualified achieving a better life experience (ABLE) account and its effect on the determination of eligibility for Washington apple health coverage.

(1) A qualified ABLE account:

(a) Is established and maintained by a state, or its designated agency or entity;

(b) Meets federal requirements under 26 U.S.C. Sec. 529A; and

(c) Is used to save funds for the disability related expenses of the account's designated beneficiary.

(2) This section applies to ABLE account beneficiaries who:

(a) Are entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act; or

(b) Meet the blindness or disability requirements under WAC 182-512-0050 (1)(b) and (c).

(3) The disability or blindness described in subsection (2)(a) or (b) of this section must have occurred before age twenty-six.

(4) This section does not apply if the total combined annual contributions to an ABLE account exceed the gift tax annual exclusion amount identified in the Internal Revenue Service publication 559.

(5) When determining countable income for apple health programs for the account's designated beneficiary, the medicaid agency or the agency's designee does not:

(a) Count contributions made to the ABLE account;

(b) Count funds distributed from the account;

(c) Count earnings generated by the account, such as accrued interest or dividends; or

(d) Reduce income used to determine eligibility by the amount of contributions made to the account, including any funds the designated beneficiary may contribute to it.

(6) When determining eligibility for apple health programs, the agency or the agency's designee excludes as resources:

(a) The value of an ABLE account, including any earnings generated by the account; and

(b) Subject to subsection (8) of this section, distributions from the account for qualified disability expenses as long as the beneficiary:

(i) Maintains an ABLE account;

(ii) Contributes to an ABLE account; or

(iii) Receives distributions from such ABLE account.

(7) "Qualified disability expense (QDE)" means any expense related to the beneficiary's blindness or disability that is made for the benefit of the beneficiary, including the following expenses:

(a) Education;

(b) Housing;

(c) Transportation;

(d) Employment training and support;

(e) Assistive technology and personal support services;

- (f) Health;
- (g) Prevention and wellness;
- (h) Financial management;
- (i) Legal fees;
- (j) Expenses for oversight and monitoring; and
- (k) Funeral and burial expenses.

(8) Distributions under subsection (6)(b) of this section, which are retained into a subsequent calendar month:

(a) Remain excluded as resources as long as the distributions are identifiable and the beneficiary still intends to use the distribution for a QDE;

(b) Are available resources on the first day of a subsequent calendar month if the intent of the beneficiary changes such that the beneficiary will not use the distribution for a QDE; and

(c) Are available resources on the first day of any subsequent month when the distribution is actually used for a non-QDE.

(9) The agency or the agency's designee counts as a resource on the first day of the following month any funds distributed for purposes other than paying a QDE expense described in subsection (7) of this section.

(10) If the beneficiary has multiple ABLE accounts, the agency or the agency's designee applies this section to the first ABLE account established.

(11) Funds remaining in the ABLE account when the beneficiary dies are subject to estate recovery under chapter 182-527 WAC, less any:

(a) Outstanding QDE debts; and

(b) Premium payments made from the ABLE account on behalf of the beneficiary to obtain coverage under the apple health care for workers with disabilities described in WAC 182-511-1000.