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 these rules to implement newly funded programs, Medicaid Alternative Care (MAC) and Tailored Supports for Older Adults (TSOA), that provide benefits for person-centered long-term services and supports (LTSS) to unpaid family members caring for Medicaid-eligible clients. The agency is amending WAC 182-503-0510, Washington apple health – Program summary, to include TSOA as a program not based on modified adjusted gross income, social security income, or temporary assistance for needy families methodologies. Other changes to WAC 182-503-0510 are housekeeping changes. The agency is amending WAC 182-527-2734, Liens during a client's lifetime, to clarify when a client is not expected to return home in terms of when the agency can file a lien. The agency is amending WAC 182-527-2742, Estate recovery – Service-related limitations, to exclude the Medicaid transformation project services when determining the amount of liens.

Citation of existing rules affected by this order:

Repealed:

Amended: 182-503-0510, 182-527-2434, 182-527-2742

Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160, Second Engrossed Substitute House Bill (2ESHB) 2376, Chapter 36, Laws of 2016, 65th Legislature, 2016 1st Special Session, Sec. 213, (1)(e); and Section 1115 of the Social Security Act; 42 CFR Sec. 431.400 through -428

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-08-095 on April 5, 2017.

Describe any changes other than editing from proposed to adopted version: See attached.

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 30, 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 30, 2017
TIME: 11:16 AM

WSR 17-12-019

(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:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	13	Amended	3	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended _____ Repealed _____

The number of sections adopted in the agency's own initiative:

New _____ Amended _____ Repealed _____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended _____ Repealed _____

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	13	Amended	3	Repealed	_____

WAC 182-513-1600(1)
Fixed WAC reference:

(1) For services included with the MAC benefit package, see WAC 388-106-1900 through ~~388-106-1985~~388-106-1990.

WAC 182-513-1610(1)(b)
Fixed WAC reference:

(b) Meets the functional requirements under WAC 388-106-1900 through ~~388-106-1985~~388-106-1990.

WAC 182-513-1625(2)(a)
Added clarifying language:

(a) The medicaid agency or the agency's designee provides help with the application or renewal process in a manner that is accessible to people with disabilities, limitations, or other impairments as described in WAC 182-503-0120 and to those who are limited-English proficient as described in WAC 182-503-0110;

WAC 182-513-1625(4)
Added clarifying language:

(4) A phone interview is required to establish TSOA financial eligibility, but may be waived if the applicant is unable to comply:

WAC 182-513-1630(1)(h)
Added clarifying language:

(h) Ask for an appeal if the person disagrees with the agency or the agency's designee's decision. A person can also ask a department supervisor or administrator to review the decision or action without affecting the right to a fair hearing;

WAC 182-513-1650(3), (4), and (5)
Reorganized and consolidated the sections as follows:

(3) ~~When TSOA terminates due to one of the following changes, the effective date is the date of change:~~Effective date of changes.
(a) When TSOA terminates because the recipient dies, the effective dates is the date of death.
(b) When TSOA terminates because of one of the following reasons, the effective date is the first day of the month following the advance notice period described in subsection (4) of this section. The TSOA recipient:

(i) ~~The person admits~~Is admitted to an institution as defined in WAC 182-503-0050, and is expected to reside there for thirty days or longer;

(~~b~~ii) ~~The person is~~Is approved for coverage under a home and community-based waiver program;

(~~5~~iii) No longer meets nursing facility level of care under WAC 388-106-0355; or

~~(c) The person becomes eligible for categorically needy (CN or alternative benefits plan (ABP) Washington apple health coverage; or~~

~~(d) The person dies.~~

~~(4) When TSOA terminates because the person becomes eligible for CN or ABP apple health coverage, the effective date is the date the CN or ABP coverage starts. The person may qualify for other long-term services and supports under chapters 182-513 and 182-515 WAC, as well as services similar to those provided under TSOA by the medicaid alternative care program under WAC 182-513-1600.~~

(iv) Becomes eligible for categorically need (CN) or alternative benefits plan (ABP) apple health coverage. The recipient may continue to receive authorized services through the medical alternative care (MAC) program under WAC 182-513-1600. The person may also apply for other long-term services and supports available under chapters 182-513 and 182-515 WAC.

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-503-0510 Washington apple health—Program summary. (1) The agency categorizes Washington apple health ((~~(WAH)~~)) programs into three groups based on the income methodology used to determine eligibility:

(a) Those that use a modified adjusted gross income (MAGI)-based methodology described in WAC 182-509-0300, called MAGI-based ((~~WAH~~)) apple health programs;

(b) Those that use an income methodology other than MAGI, called non-MAGI-based ((~~WAH~~)) apple health programs, which include:

(i) Supplemental security income (SSI)-related ((~~WAH~~)) apple health programs;

(ii) Temporary assistance for needy families (TANF)-related ((~~WAH~~)) apple health programs; and

(iii) Other ((~~WAH~~)) apple health programs not based on MAGI, SSI, or TANF methodologies.

(c) Those that provide coverage based on a specific status or entitlement in federal rule and not on countable income, called deemed eligible ((~~WAH~~)) apple health programs.

(2) MAGI-based ((~~WAH~~)) apple health programs include the following:

(a) ((~~WAH~~)) Apple health parent and caretaker relative program described in WAC 182-505-0240;

(b) MAGI-based ((~~WAH~~)) apple health adult medical program described in WAC 182-505-0250, for which the scope of coverage is called the alternative benefits plan (ABP) described in WAC 182-500-0010;

(c) ((~~WAH~~)) Apple health for pregnant women program described in WAC 182-505-0115;

(d) ((~~WAH~~)) Apple health for kids program described in WAC 182-505-0210 (3)(a);

(e) Premium-based ((~~WAH~~)) apple health for kids described in WAC 182-505-0215;

(f) ((~~WAH~~)) Apple health long-term care for children and adults described in chapter 182-514 WAC; and

(g) ((~~WAH~~)) Apple health alien emergency medical program described in WAC 182-507-0110 through 182-507-0125 when the person is eligible based on criteria for a MAGI-based ((~~WAH~~)) apple health program.

(3) Non-MAGI-based ((~~WAH~~)) apple health programs include the following:

(a) SSI-related programs which use the income methodologies of the SSI program (except where the agency has adopted more liberal rules than SSI) described in chapter 182-512 WAC to determine eligibility:

(i) ((~~WAH~~)) Apple health for workers with disabilities (HWD) described in chapter 182-511 WAC;

(ii) ((~~WAH~~)) Apple health SSI-related programs described in chapters 182-512 and 182-519 WAC;

(iii) ((~~WAH~~)) Apple health long-term care and hospice programs described in chapters 182-513 and 182-515 WAC;

(iv) ((~~WAH~~)) Apple health medicare savings programs described in chapter 182-517 WAC; and

(v) ((~~WAH~~)) Apple health alien emergency medical (AEM) programs described in WAC 182-507-0110 and 182-507-0125 when the person meets

the age, blindness or disability criteria specified in WAC 182-512-0050.

(b) TANF-related programs which use the income methodologies based on the TANF cash program described in WAC 388-450-0170 to determine eligibility, with variations as specified in WAC 182-509-0001(5) and program specific rules:

(i) ((~~WAH~~)) Refugee medical assistance (RMA) program described in WAC 182-507-0130; and

(ii) ((~~WAH~~)) Apple health medically needy (MN) coverage for pregnant women and children who do not meet SSI-related criteria.

(c) Other programs:

(i) ((~~WAH~~)) Breast and cervical cancer program described in WAC 182-505-0120;

(ii) ((~~WAH~~)) TAKE CHARGE program described in WAC 182-532-0720;

(iii) ((~~WAH~~)) Medical care services described in WAC 182-508-0005;

(iv) ((~~WAH~~)) Apple health for pregnant minors described in WAC 182-505-0117; ((~~and~~))

(v) ((~~WAH~~)) Kidney disease program described in chapter 182-540 WAC; and

(vi) Tailored supports for older adults described in WAC 182-513-1610.

(4) Deemed eligible ((~~WAH~~)) apple health programs include:

(a) ((~~WAH~~)) Apple health SSI medical program described in chapter 182-510 WAC, or a person who meets the medicaid eligibility criteria in 1619b of the Social Security Act;

(b) ((~~WAH~~)) Newborn medical program described in WAC 182-505-0210(2);

(c) ((~~WAH~~)) Foster care program described in WAC 182-505-0211;

(d) ((~~WAH~~)) Medical extension program described in WAC 182-523-0100; and

(e) ((~~WAH~~)) Family planning extension described in WAC 182-505-0115(5).

(5) A person is eligible for categorically needy (CN) health care coverage when the household's countable income is at or below the categorically needy income level (CNIL) for the specific program.

(6) If income is above the CNIL, a person is eligible for the MN program if the person is:

(a) A child;

(b) A pregnant woman; or

(c) SSI-related (aged sixty-five, blind or disabled).

(7) MN health care coverage is not available to parents, caretaker relatives, or adults unless they are eligible under subsection (6) of this section.

(8) A person who is eligible for the ((~~WAH~~)) apple health MAGI-based adult program listed in subsection (2)(b) of this section is eligible for ABP health care coverage as defined in WAC 182-500-0010. Such a person may apply for more comprehensive coverage through another ((~~WAH~~)) apple health program at any time.

(9) For the other specific program requirements a person must meet to qualify for ((~~WAH~~)) apple health, see chapters 182-503 through 182-527 WAC.

NEW SECTION

WAC 182-513-1600 Medicaid alternative care (MAC)—Overview. Medicaid alternative care (MAC) is a Washington apple health benefit authorized under section 1115 of the Social Security Act. It enables the medicaid agency and the agency's designees to deliver an array of person-centered long-term services and supports (LTSS) to unpaid caregivers caring for a medicaid-eligible person who meets nursing facility level of care under WAC 388-106-0355.

(1) For services included with the MAC benefit package, see WAC 388-106-1900 through 388-106-1990.

(2) For financial eligibility for MAC services, see WAC 182-513-1605.

NEW SECTION

WAC 182-513-1605 Medicaid alternative care (MAC)—Eligibility. (1) The person receiving care must meet the financial eligibility criteria for medicaid alternative care (MAC).

(2) To be eligible for MAC services, the person receiving care must:

(a) Be age fifty-five or older;

(b) Be assessed as meeting nursing facility level of care under WAC 388-106-0355, and choose to receive services under the MAC program instead of other long-term services and supports;

(c) Meet residency requirements under WAC 182-503-0520;

(d) Live at home and not in a residential or institutional setting;

(e) Have an eligible unpaid caregiver under WAC 388-106-1905;

(f) Meet citizenship and immigration status requirements under WAC 182-503-0535 (2)(a) or (b); and

(g) Be eligible for either:

(i) A noninstitutional medicaid program, which provides categorically needy (CN) or alternative benefit plan (ABP) scope of care under WAC 182-501-0060; or

(ii) An SSI-related CN program by using spousal impoverishment protections institutionalized (SIPI) spouse rules under WAC 182-513-1660.

(3) An applicant whose eligibility is limited to one or more of the following programs is not eligible for MAC:

(a) The medically needy program under WAC 182-519-0100;

(b) The medicare savings programs under WAC 182-517-0300;

(c) The family planning program under WAC 182-505-0115;

(d) The TAKE CHARGE program under WAC 182-532-720;

(e) The medical care services (MCS) program under WAC 182-508-0005;

(f) The alien emergency medical (AEM) program under WAC 182-507-0110 through 182-507-0120;

(g) The state funded long-term care for noncitizens program under WAC 182-507-0125;

(h) The kidney disease program under chapter 182-540 WAC; or

(i) The tailored supports for older adults (TSOA) program under WAC 182-513-1610.

(4) The following rules do not apply to services provided under the MAC benefit:

(a) Transfer of asset penalties under WAC 182-513-1363;

(b) Excess home equity under WAC 182-513-1350; and

(c) Estate recovery under chapter 182-527 WAC.

NEW SECTION

WAC 182-513-1610 Tailored supports for older adults (TSOA)—Overview. (1) The tailored supports for older adults (TSOA) program is a federally funded program approved under section 1115 of the Social Security Act. It enables the medicaid agency and the agency's designees to deliver person-centered long-term services and supports (LTSS) to a person who:

(a) Meets nursing facility level of care described in WAC 388-106-0355; and

(b) Meets the functional requirements under WAC 388-106-1900 through 388-106-1990.

(2) For the purposes of TSOA, the applicant is the person receiving care even though services may be authorized to the person providing care.

(3) TSOA does not provide Washington apple health coverage.

NEW SECTION

WAC 182-513-1615 Tailored supports for older adults (TSOA)—General eligibility. (1) The person receiving care must meet the financial eligibility criteria for tailored supports for older adults (TSOA).

(2) To be eligible for the TSOA program, the person receiving care must:

(a) Be age fifty-five or older;

(b) Be assessed as meeting nursing facility level of care under WAC 388-106-0355;

(c) Meet residency requirements under WAC 182-503-0520;

(d) Live at home and not in a residential or institutional setting;

(e) Have an eligible unpaid caregiver under WAC 388-106-1905, or meet the criteria under WAC 388-106-1910 if the person does not have an eligible unpaid caregiver;

(f) Meet citizenship or immigration status requirements under WAC 182-503-0535. To be eligible for TSOA, a person must be a:

(i) U.S. citizen under WAC 182-503-0535 (1)(c);

(ii) U.S. national under WAC 182-503-0535 (1)(d);

(iii) Qualifying American Indian born abroad under WAC 182-503-0535 (1)(f); or

(iv) Qualified alien under WAC 182-503-0535 (1)(b) and have either met or is exempt from the five-year bar requirement for medicaid.

(g) Provide a valid Social Security number under WAC 182-503-0515;

(h) Have countable resources within specific program limits under WAC 182-513-1640; and

(i) Meet income requirements under WAC 182-513-1635.

(3) TSOA applicants who receive coverage under Washington apple health programs are not eligible for TSOA, unless their enrollment is limited to the:

(a) Medically needy program under WAC 182-519-0100;

(b) Medicare savings programs under WAC 182-517-0300;

(c) Family planning program under WAC 182-505-0115;

(d) TAKE CHARGE program under WAC 182-532-720; or

(e) Kidney disease program under chapter 182-540 WAC.

(4) A person who receives apple health coverage under a categorically needy (CN) or alternative benefit plan (ABP) program is not eligible for TSOA but may qualify for:

(a) Caregiver supports under medicaid alternative care (MAC) under WAC 182-513-1605; or

(b) Other long-term services and supports under chapter 182-513 or 182-515 WAC.

(5) The following rules do not apply to services provided under the TSOA benefit:

(a) Transfer of asset penalties under WAC 182-513-1363;

(b) Excess home equity under WAC 182-513-1350;

(c) Client financial responsibility under WAC 182-515-1509;

(d) Estate recovery under chapter 182-527 WAC;

(e) Disability requirements under WAC 182-512-0050;

(f) Requirement to do anything necessary to obtain income under WAC 182-512-0700(1); and

(g) Assignment of rights and cooperation under WAC 182-503-0540.

NEW SECTION

WAC 182-513-1620 Tailored supports for older adults (TSOA)—Presumptive eligibility (PE). (1) A person may be determined presumptively eligible for tailored supports for older adults (TSOA) services upon completion of a prescreening interview.

(2) The prescreening interview may be conducted by either:

(a) The area agency on aging (AAA); or

(b) A home and community services intake case manager or social worker.

(3) To receive services under presumptive eligibility (PE), the person must meet:

(a) Nursing facility level of care under WAC 388-106-0355;

(b) TSOA income limits under WAC 182-513-1635; and

(c) TSOA resource limits under WAC 182-513-1640.

(4) The PE period begins on the date the determination is made and:

(a) Ends on the last day of the month following the month of the PE determination if a full TSOA application is not completed and submitted by that date; or

(b) Continues through the date the final TSOA eligibility determination is made if a full TSOA application is submitted before the last day of the month following the month of the PE determination.

(5) If the person applies and is not determined financially eligible for TSOA, there is no overpayment or liability on the part of the applicant for services received during the PE period.

(6) The medicaid agency or the agency's designee sends written notice as described in WAC 182-518-0010 when PE for TSOA is approved or denied.

(7) A person may receive only one PE period within a twelve-consecutive-month period.

(8) If the agency establishes a waitlist for TSOA services under WAC 388-106-1975, then PE does not apply.

NEW SECTION

WAC 182-513-1625 Tailored supports for older adults (TSOA)—Applications. (1) Applications for tailored supports for older adults (TSOA) are submitted:

(a) Online at Washington Connection at www.washingtonconnection.org;

(b) By sending a completed HCA 18-008 application for TSOA form to P.O. Box 45826, Olympia, WA 98605;

(c) By faxing a completed HCA 18-008 application for TSOA form to 1-855-635-8305;

(d) By contacting the local area agency on aging (AAA) office at 1-855-567-0252; or

(e) By contacting the local home and community services (HCS) office. To find the local HCS office, see www.altsa.dshs.wa.gov/Resources/clickmap.htm.

(2) Help filing an application:

(a) The medicaid agency or the agency's designee provides help with the application or renewal process in a manner that is accessible to people with disabilities, limitations, or other impairments as described in WAC 182-503-0120 and to those who are limited-English proficient as described in WAC 182-503-0110;

(b) For help filing an application, a person may:

(i) Contact a local AAA office;

(ii) Contact a local HCS office; or

(iii) Have an authorized representative apply on the person's behalf.

(3) The following people can apply for the TSOA program:

(a) The applicant (the person receiving care);

(b) The applicant's spouse;

(c) The applicant's caregiver (person providing in-home caregiver services);

(d) A legal guardian; or

(e) An authorized representative, as defined in WAC 182-500-0010.

(4) A phone interview is required to establish TSOA financial eligibility, but may be waived if the applicant is unable to comply:

(a) Due to the applicant's medical condition; and

(b) Because the applicant does not have another person that is able to conduct the interview on the applicant's behalf.

(5) The agency or the agency's designee processes TSOA applications using the same timelines under WAC 182-503-0060.

(6) TSOA begins on the date the person is determined presumptively eligible for TSOA under WAC 182-513-1620, or on the date all eligibility requirements are established if the person is not found presumptively eligible.

(7) When the person withdraws an application for TSOA, or is determined ineligible for TSOA services, the agency or the agency's designee denies the application under WAC 182-503-0080.

NEW SECTION

WAC 182-513-1630 Tailored supports for older adults (TSOA)—Rights and responsibilities. (1) A person applying for or receiving tailored supports for older adults (TSOA) has the right to:

(a) Have TSOA rights and responsibilities explained and provided in writing;

(b) Be treated politely and fairly without regard to race, color, political beliefs, national origin, religion, age, gender (including gender identity and sex stereotyping), sexual orientation, disability, honorably discharged veteran or military status, or birthplace;

(c) Get help with the TSOA application if requested;

(d) Have an application processed promptly and no later than the timelines described in WAC 182-503-0060;

(e) Have at least ten calendar days to give the medicaid agency or the agency's designee information needed to determine eligibility and be given more time if asked for;

(f) Have personal information kept confidential. The agency or the agency's designee may share information with other state and federal agencies for purposes of eligibility and enrollment in other Washington apple health programs;

(g) Get written notice, in most cases, at least ten calendar days before the agency or the agency's designee denies, terminates, or changes eligibility for TSOA;

(h) Ask for an appeal if the person disagrees with the agency or the agency's designee's decision. A person can also ask a department supervisor or administrator to review the decision or action without affecting the right to a fair hearing;

(i) Ask for and get interpreter or translator services at no cost and without delay;

(j) Ask for voter registration assistance;

(k) Refuse to speak to an investigator if the person's case is audited. If the person does not want to let the investigator enter their home, there is no requirement to do so and the person may ask the investigator to come back at another time. Such a request will not affect a person's eligibility for TSOA; and

(l) Get equal access services under WAC 182-503-0120 if eligible.

(2) An applicant or recipient of TSOA is responsible to:

(a) Report changes in household or family circumstances as required under WAC 182-513-1650;

(b) Provide the agency or the agency's designee with any information or proof needed to determine eligibility. If the person has trou-

ble getting proof, the agency or the agency's designee helps get the proof needed or contacts other persons or agencies for it;

(c) Provide a valid Social Security number or immigration document number in order to verify identity, citizenship, immigration status, date of birth, and whether the person has other health care coverage. This information is not shared with the department of homeland security;

(d) Complete renewals when requested; and

(e) Cooperate with quality assurance when requested.

NEW SECTION

WAC 182-513-1635 Tailored supports for older adults (TSOA)—Income eligibility. (1) To determine income eligibility for the tailored supports for older adults (TSOA) program, the medicaid agency or the agency's designee uses the following rules depending on whether the person is single or married.

(2) If the TSOA applicant is single, the agency or the agency's designee:

(a) Determines available income under WAC 182-513-1325;

(b) Excludes income under WAC 182-513-1340; and

(c) Compares remaining gross nonexcluded income to the special income level (SIL). To be eligible, a person's gross income must be equal to or less than the SIL (three hundred percent of the federal benefit rate (FBR)).

(3) If the TSOA applicant is married, the agency or the agency's designee:

(a) Determines available income under WAC 182-513-1330 with the exception of subsections (5) and (6) of that section;

(b) Excludes income under WAC 182-513-1340; and

(c) Compares the applicant's remaining gross nonexcluded income to the SIL. To be eligible, a person's gross income must be equal to or less than the SIL (three hundred percent of the FBR).

NEW SECTION

WAC 182-513-1640 Tailored supports for older adults (TSOA)—Resource eligibility. (1) The resource standard for a single applicant for tailored supports for older adults (TSOA) is $53,100.

(2) The resource standard for a married couple is $53,100 for the TSOA applicant plus the state spousal resource standard for the spousal impoverishment protections community (SIPC) spouse. The state spousal resource standard may change annually on July 1st. The resource standards are found at www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.

(3) The medicaid agency or the agency's designee uses rules in WAC 182-513-1350 (1), (3) and (4) to determine general eligibility relating to resources, availability of resources, and which resources count.

(4) The TSOA recipient has one year from the date of initial eligibility of TSOA to transfer resources in excess of the TSOA standard to the SIPC spouse.

NEW SECTION

WAC 182-513-1645 Tailored supports for older adults (TSOA)—Certification periods. (1) A certification period is the period of time a person is determined eligible for the tailored supports for older adults (TSOA) program. It begins on the first day of the month that the medicaid agency or the agency's designee determines the person is eligible for TSOA services, and continues through the last day of the month of the certification period.

(2) TSOA is certified for twelve months of continuous coverage regardless of a change in circumstances, unless the person:

(a) Moves out-of-state;

(b) Meets institutional status under WAC 182-513-1320;

(c) Becomes eligible for a categorically needy or alternate benefit plan Washington apple health program; or

(d) Dies.

(3) Financial eligibility for the TSOA program may not be approved prior to the date of a presumptive or full eligibility determination.

NEW SECTION

WAC 182-513-1650 Tailored supports for older adults (TSOA)—Changes of circumstances requirements. (1) Changes in tailored supports for older adults (TSOA) household and family circumstances described in subsection (2) of this section must be reported to the medicaid agency or the agency's designee within thirty days of the date of the change.

(2) The following changes must be reported:

(a) A change in residential or mailing address, including if the TSOA recipient moves out-of-state;

(b) When the TSOA recipient admits to an institution, as defined in WAC 182-500-0050, and is likely to reside there for thirty days or longer; or

(c) When the TSOA recipient dies.

(3) Effective date of changes.

(a) When TSOA terminates because the recipient dies, the effective date is the date of death.

(b) When TSOA terminates because of one of the following reasons, the effective date is the first day of the month following the advance notice period described in subsection (4) of this section. The TSOA recipient:

(i) Is admitted to an institution as defined in WAC 182-503-0050, and is expected to reside there for thirty days or longer;

(ii) Is approved for coverage under a home and community-based waiver program;

(iii) No longer meets nursing facility level of care under WAC 388-106-0355; or

(iv) Becomes eligible for categorically need (CN) or alternative benefits plan (ABP) apple health coverage. The recipient may continue to receive authorized services through the medical alternative care (MAC) program under WAC 182-513-1600. The person may also apply for other long-term services and supports available under chapters 182-513 and 182-515 WAC.

(4) The advance notice period:

(a) Begins on the day the letter about the change is mailed; and

(b) Is determined according to the rules in WAC 182-518-0025.

(5) When a law or regulation requires a change in TSOA, the date specified by the law or regulation is the effective date of the change.

NEW SECTION

WAC 182-513-1655 Tailored supports for older adults (TSOA)—Renewals. (1) A person who receives tailored supports for older adults (TSOA) services must complete a renewal of all eligibility factors for the program at least every twelve months.

(2) Forty-five days prior to the end of the certification period, notice is sent to the recipient with the HCA 18-008 application for TSOA form. The TSOA recipient may complete the TSOA renewal in any of the following ways:

(a) Complete the TSOA application form, sign it, and mail it to P.O. Box 45826, Olympia, WA 98605 by the due date on the letter;

(b) Complete the TSOA application form, sign it, and fax it to 1-855-635-8305 by the due date on the letter;

(c) Renew online at Washington connection at www.washingtonconnection.org by the due date on the letter; or

(d) Call the local home and community services office at the telephone number on the letter by the due date on the letter.

(3) During the renewal process, the medicaid agency or the agency's designee reviews all eligibility factors to determine ongoing eligibility for TSOA, and may request additional verification of eligibility factors under WAC 182-503-0050 if unable to verify information through existing data sources. If additional information is needed, the agency or the agency's designee sends written notice under WAC 182-518-0015.

(4) If the agency or the agency's designee is unable to complete the renewal or determine eligibility for TSOA beyond the certification period, prior to ending eligibility for TSOA, the agency or the agency's designee sends a written termination notice as described in WAC 182-518-0025.

(5) A person who is terminated from TSOA for failure to renew has thirty days from the termination date to submit a completed renewal. If still the person is eligible, TSOA is reopened without a break in eligibility.

(6) Equal access services as described in WAC 182-503-0120 are provided for anyone who needs help meeting the requirements of this section.

(7) A person who disagrees with an action regarding TSOA eligibility may ask for a hearing under chapter 182-526 WAC.

NEW SECTION

WAC 182-513-1660 Medicaid alternative care (MAC) and tailored supports for older adults (TSOA)—Spousal impoverishment. (1) The medicaid agency or the agency's designee determines financial eligibility for medicaid alternative care (MAC) or tailored supports for older adults (TSOA) using spousal impoverishment protections under this section, when an applicant or recipient:

(a) Is married to, or marries, a person who is not in a medical institution; and

(b) Is ineligible for a noninstitutional categorically needy (CN) SSI-related program or the TSOA program due to:

(i) Spousal deeming rules under WAC 182-512-0920 for MAC;

(ii) Exceeding the resource limit in WAC 182-512-0010 for MAC, or the limit under WAC 182-513-1640 for TSOA; or

(iii) Both (b)(i) and (ii) of this subsection.

(2) When a resource test applies, the agency or the agency's designee determines countable resources using the SSI-related resource rules under chapter 182-512 WAC, except pension funds owned by the spousal impoverishment protections community (SIPC) spouse are not excluded as described under WAC 182-512-0550:

(a) Resource standards:

(i) For MAC, the resource standard is $2,000; or

(ii) For TSOA, the resource standard is $53,100.

(b) Before determining countable resources used to establish eligibility for the applicant, the agency or the agency's designee allocates the state spousal resource standard to the SIPC spouse.

(c) The resources of the SIPC spouse are unavailable to the spousal impoverishment protections institutionalized (SIPI) spouse the month after eligibility for MAC or TSOA services is established.

(3) The SIPI spouse has until the end of the month of the first regularly scheduled eligibility review to transfer countable resources in excess of $2,000 (for MAC) or $53,100 (for TSOA) to the SIPC spouse.

(4) Income eligibility:

(a) For MAC:

(i) The agency or the agency's designee determines countable income using the SSI-related income rules under chapter 182-512 WAC, but uses only the applicant or recipient's income;

(ii) If the applicant's or recipient's countable income is at or below the SSI categorically needy income level (CNIL), the applicant or recipient is considered a SIPI spouse and is income eligible for noninstitutional CN coverage and MAC services;

(iii) If the applicant is employed and the applicant's countable income is at or below the standard under WAC 182-511-1060, the applicant is considered a SIPI spouse and is income eligible for noninstitutional CN coverage under the health care for workers with disabilities (HWD) program and MAC services.

(b) For TSOA, see WAC 182-513-1635.

(5) Once a person no longer receives MAC services, eligibility is redetermined without using spousal impoverishment protections under WAC 182-504-0125.

(6) If the applicant's separate countable income is above the standards described in subsection (4) of this section, the applicant is not income eligible for MAC or TSOA services.

(7) The spousal impoverishment protections described in this section are time-limited and expire on December 31, 2018.

(8) Standards described in this chapter are located at www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.

AMENDATORY SECTION (Amending WSR 16-05-054, filed 2/12/16, effective 3/14/16)

WAC 182-527-2734 Liens during a client's lifetime. For the purposes of this section, the term "agency" includes the agency's designee.

(1) **When the agency may file.**

(a) The agency may file a lien against the property of a Washington apple health client during the client's lifetime if:

(i) The client resides in a skilled nursing facility, intermediate care facility for individuals with an intellectual disability, or other medical institution under WAC 182-500-0050;

(ii) The agency ((~~has determined~~)) determines that ((~~the~~)) a client cannot reasonably be expected to return home because:

(A) The agency receives a physician's verification that the client will not be able to return home; or

(B) The client has resided for six months or longer in an institution as defined in WAC 182-500-0050; and

(iii) None of the following people lawfully reside in the client's home:

(A) The client's spouse or state-registered domestic partner;

(B) The client's child who is age twenty or younger, or is blind or permanently disabled as defined in WAC 182-512-0050; or

(C) A client's sibling who has an equity interest in the home and who has been residing in the home for at least one year immediately before the client's admission to the medical institution.

(b) If the client returns home from the medical institution, the agency releases the lien.

(2) **Amount of the lien.**

(a) The agency may file a lien to recoup the cost of all non-MAGI-based and deemed eligible services under WAC 182-503-0510 it correctly purchased on the client's behalf, regardless of the client's age on the date of service.

(b) Services provided under the medicaid transformation project, defined in WAC 182-500-0070, are excluded when determining the amount of the lien.

(3) **Notice requirement.**

(a) Before the agency may file a lien under this section, it sends notice via first class mail to:

(i) The client's last known address;

(ii) The client's authorized representative, if any;

(iii) The address of the property subject to the lien; and

(iv) Any other person known to hold title to the property.

(b) The notice states:

(i) The client's name;

(ii) The agency's intent to file a lien against the client's property;

(iii) The county in which the property is located; and

(iv) How to request an administrative hearing.

(4) **Interest assessed on past-due debt.**

(a) Interest on a past-due debt accrues at a rate of one percent per month under RCW 43.17.240.

(b) A lien under this section becomes a past-due debt when the agency has recorded the lien in the county where the property is located and:

(i) Thirty days have passed since the property was transferred; or

(ii) Nine months have passed since the lien was filed.

(c) The agency may waive interest if reasonable efforts to sell the property have failed.

(5) **Administrative hearing.** An administrative hearing under this section is governed by WAC 182-527-2753.

AMENDATORY SECTION (Amending WSR 16-05-054, filed 2/12/16, effective 3/14/16)

WAC 182-527-2742 Estate recovery—Service-related limitations. For the purposes of this section, the term "agency" includes the agency's designee.

The agency's payment for the following services is subject to recovery:

(1) State-only funded services, except:

(a) Adult protective services;

(b) Offender reentry community safety program services;

(c) Supplemental security payments (SSP) authorized by the developmental disabilities administration (DDA); and

(d) Volunteer chore services.

(2) For dates of service ((~~beginning~~)) on and after January 1, 2014:

(a) Basic plus waiver services;

(b) Community first choice (CFC) services;

(c) Community option program entry system (COPES) services;

(d) Community protection waiver services;

(e) Core waiver services;

(f) Hospice services;

(g) Intermediate care facility for individuals with intellectual disabilities services provided in either a private community setting or in a rural health clinic;

(h) Individual and family services;

(i) Medicaid personal care services;

(j) New Freedom consumer directed services;

(k) Nursing facility services;

(l) Personal care services funded under Title XIX or XXI;

(m) Private duty nursing administered by the aging and long-term support administration (ALTSA) or the DDA;

(n) Residential habilitation center services;

(o) Residential support waiver services;

(p) Roads to community living demonstration project services;

(q) The portion of the managed care premium used to pay for ALTSA-authorized long-term care services under the program of all-inclusive care for the elderly (PACE); and

(r) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.

(3) For dates of service beginning January 1, 2010, through December 31, 2013:

(a) Medicaid services;

(b) Premium payments to managed care organizations (MCOs); and

(c) The client's proportional share of the state's monthly contribution to the Centers for Medicare and Medicaid Services to defray the costs for outpatient prescription drug coverage provided to a person who is eligible for medicare Part D and medicaid.

(4) For dates of service beginning June 1, 2004, through December 31, 2009:

(a) Medicaid services;

(b) Medicare premiums for people also receiving medicaid;

(c) Medicare savings programs (MSPs) services for people also receiving medicaid; and

(d) Premium payments to MCOs.

(5) For dates of service beginning July 1, 1995, through May 31, 2004:

(a) Adult day health services;

(b) Home and community-based services;

(c) Medicaid personal care services;

(d) Nursing facility services;

(e) Private duty nursing services; and

(f) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.

(6) For dates of service beginning July 1, 1994, through June 30, 1995:

(a) Home and community-based services;

(b) Nursing facility services; and

(c) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.

(7) For dates of service beginning July 26, 1987, through June 30, 1994: Medicaid services.

(8) For dates of service through December 31, 2009. If a client was eligible for the MSP, but not otherwise medicaid eligible, the client's estate is liable only for any sum paid to cover medicare premiums and cost-sharing benefits.

(9) For dates of service beginning January 1, 2010. If a client was eligible for medicaid and the MSP, the client's estate is not liable for any sum paid to cover medical assistance cost-sharing benefits.

(10) For dates of service beginning July 1, 2017, long-term services and supports authorized under the medicaid transformation project are exempt from estate recovery. Exempted services include those provided under:

(a) Medicaid alternative care under WAC 182-513-1600;

(b) Tailored supports for older adults under WAC 182-513-1610;

(c) Supportive housing under WAC 388-106-1700 through 388-106-1765; or

(d) Supported employment under WAC 388-106-1800 through 388-106-1865.