



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Health Care Authority, Washington Apple Health

Title of rule and other identifying information:

182-512-0920 SSI-related medical-Deeming/allocation of income from nonapplying spouse.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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AND RECEIVED BY July 5, 2017

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

The agency is revising this rule to correct a cross reference, and to remove the acronym WAH and replace with apple health.

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
May 3, 2017

NAME (TYPE OR PRINT)
Wendy Barcus

SIGNATURE

TITLE
HCA Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
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Name of proponent: Health Care Authority

- Private
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- Governmental

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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

WAC 182-512-0920 SSI-related medical—Deeming/allocation of income from nonapplying spouse. The agency considers the income of financially responsible persons to determine if a portion of that income is available to other household members.

(1) A portion of the income of a nonapplying spouse is considered available to meet the needs of a Washington apple health ((WAH)) SSI-related applicant. A nonapplying spouse is defined as someone who is:

(a) Financially responsible for the SSI-related applicant as described in WAC ((182-506-0010)) 182-506-0015 and 182-512-0960. For ((WAH)) apple health institutional and home and community based waiver programs, see WAC 182-513-1315;

(b) Living in the same household with the SSI-related applicant;

(c) Not receiving a needs based payment such as temporary assistance to needy families (TANF) or state-funded cash assistance (SFA); or

(d) Not related to SSI, or is not applying for ((WAH)) apple health coverage including spouses receiving SSI.

(2) An ineligible spouse is the spouse of an SSI cash recipient and is either not eligible for SSI for themselves or who has elected to not receive SSI cash so that their spouse may be eligible. An SSI-related applicant who is the ineligible spouse of an SSI cash recipient is not eligible for ((WAH)) apple health categorically needy (CN) health care coverage and must be considered for health care coverage under the ((WAH)) apple health medically needy (MN) program or for a modified adjusted gross income-based program if the person does not receive medicare.

(3) When determining whether a nonapplying spouse's income is countable, the agency:

(a) Follows the income rules described in WAC 182-512-0600 through 182-512-0780;

(b) Excludes income described in WAC 182-512-0800 (2) through (10), and all income excluded under federal statute or state law as described in WAC 182-512-0860;

(c) Excludes work-related expenses described in WAC 182-512-0840, with the exception that the sixty-five dollars plus one half earned income deduction described in WAC 182-512-0840(2) does not apply;

(d) Deducts any court ordered child support which the nonapplying spouse pays for a child outside of the home (current support or arrears); and

(e) Deducts any applicable child-related income exclusions described in WAC 182-512-0820.

(4) The agency allocates income of the nonapplying spouse to nonapplying children who reside in the home as described in WAC 182-512-0820. Allocations to children are deducted first from the nonapplying spouse's unearned income, then from their earned income.

(a) For ((WAH)) apple health CN medical determinations, allocations to children are not allowed out of the income of the SSI-related applicant, only from the income of the nonapplying spouse.

(b) For ((WAH)) apple health MN medical determinations, allocations to children are allowed from the income of the SSI-related applicant if the applicant is unmarried.

(5) For ((WAH)) apple health SSI-related CN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:

(a) Less than or equal to one-half of the federal benefit rate (FBR), no income is deemed to the applicant. Compare the applicant's countable income to the one-person SSI categorically needy income level (CNIL) described in WAC 182-512-0010. For health care for workers with disabilities (HWD) applicants, compare to the one-person HWD standard described in WAC 182-505-0100 (1)(c).

(b) Greater than one-half of the FBR, then the entire nonapplying spouse's countable income is deemed to the applicant. Compare the applicant's income to the two-person SSI CNIL. For HWD applicants, compare to the two-person HWD standard described in WAC 182-505-0100 (1)(c).

(6) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(a) of this section:

(a) Allow all allowable income deductions and exclusions as described in chapter 182-512 WAC to the SSI-related applicant's income; and

(b) Compare the net remaining income to the one-person SSI CNIL or the one-person HWD standard.

(7) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(b) of this section:

(a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one twenty dollar general income exclusion to the combined amount. If there is less than twenty dollars of unearned income, the remainder of the twenty dollar general income exclusion is deducted from earned income.

(b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the sixty-five dollar plus one half of the remainder earned income deduction (described in WAC 182-512-0840(2)) to the combined amount.

(c) Add together the net unearned and net earned income amounts and compare the total to the two-person SSI CNIL described in WAC 182-512-0010 or the two-person HWD standard described in WAC 182-505-0100 (1)(c). If the income is equal to or below the applicable two-person standard, the applicant is eligible for ((WAH)) apple health CN health care coverage.

(8) An SSI-related applicant under the age of sixty-five who is working, whose level of work activity and earnings is determined not to be "substantial gainful activity" in accordance with all applicable Social Security disability determination rules and standards, but who is not eligible for ((WAH)) apple health CN coverage under the regular ((WAH)) apple health SSI-related program, may be considered for eligibility under the HWD program. For HWD program rules, see chapter 182-511 WAC.

(9) If the SSI-related applicant's countable income is above the applicable SSI CNIL standard, the agency or its authorized representative considers eligibility under the ((WAH)) apple health MN program or under the HWD program if the person is under the age of sixty-five and working. An SSI-related applicant who meets the following criteria is not eligible for ((WAH)) apple health MN coverage and eligibility must be determined under HWD or under a MAGI-based ((WAH)) apple health program:

- (a) The applicant is blind or disabled and under the age of sixty-five;
- (b) The applicant's level of work activity and earnings is determined to be "substantial gainful activity" in accordance with all applicable Social Security disability determination rules and standards; and
- (c) The applicant is not receiving a title II Social Security cash benefit based on blindness or disability.
- (10) For SSI-related ((WAH)) apple health MN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:
- (a) Less than or equal to the effective one-person MNIL described in WAC 182-519-0050, no income is deemed to the applicant and a portion of the applicant's countable income is allocated to the nonapplying spouse's income to raise it to the effective MNIL standard.
- (b) Greater than the effective MNIL, then the amount in excess of the effective one-person MNIL is deemed to the applicant. Compare the applicant's income to the effective one-person MNIL.
- (11) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (10)(a) of this section:
- (a) Allocate income from the applicant to bring the income of the nonapplying spouse up to the effective one-person MNIL standard;
- (b) Allow all allowable income deductions and exclusions as described in chapter 182-512 WAC to the SSI-related applicant's remaining income;
- (c) Allow a deduction for medical insurance premium expenses (if applicable); and
- (d) Compare the net countable income to the effective one-person MNIL.
- (12) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (10)(b) of this section:
- (a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one twenty dollar general income exclusion to the combined amount (if there is less than twenty dollars of unearned income, the remainder of the twenty dollar general income exclusion is deducted from earned income);
- (b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the sixty-five dollar plus one half of the remainder earned income deduction (described in WAC 182-512-0840(2)) to the combined amount;
- (c) Add together the net unearned and net earned income amounts;
- (d) Allow a deduction for medical insurance premium expenses (if applicable) per WAC 182-519-0100(5); and
- (e) Compare the net countable income to the effective one-person MNIL described in WAC 182-519-0050. If the income is:
- (i) Equal to or below the effective one-person MNIL, the applicant is eligible for ((WAH)) apple health MN health care coverage with no spenddown.
- (ii) Greater than the effective MNIL, the applicant is only eligible for ((WAH)) apple health MN health care coverage after meeting a spenddown liability as described in WAC 182-519-0110.
- (13) The ineligible spouse of an SSI-cash recipient applying for ((WAH)) apple health MN coverage is eligible to receive the deductions and allocations described in subsection (10)(a) of this section.