

# Chapter 182-503 WAC

## PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE

### WAC

182-503-0040	Washington apple health—Interview requirements.
182-503-0090	Washington apple health—Exceptions to rule.
182-503-0505	General eligibility requirements for medical programs.
182-503-0510	How a client is determined "related to" a categorical program.
182-503-0520	Residency requirements for medical care services (MCS).
182-503-0530	Citizenship and alien status—Definitions.
182-503-0532	Citizenship requirements for the medical care services (MCS) and ADATSA programs.
182-503-0540	Assignment of rights and cooperation.
182-503-0555	Age requirement for MCS and ADATSA.
182-503-0560	Impact of fleeing felon status on eligibility for medical care services (MCS).

**WAC 182-503-0040 Washington apple health—Interview requirements.** (1) An individual applying for Washington apple health (WAH) (as defined in WAC 182-500-0120) is not required to have an in-person interview to determine eligibility.

(2) The agency or its designee may contact an individual by phone or in writing to gather any additional information that is needed to make an eligibility determination.

(3) A phone or in-person interview is required to determine initial financial eligibility for WAH long-term care services.

(4) The interview requirement described in subsection (3) of this section may be waived if the applicant is unable to comply:

- Due to his or her medical condition; or
- Because the applicant does not have a family member or another individual that is able to conduct the interview on his or her behalf.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (Public Law 111-148), 42 C.F.R. §§ 431, 435, and 457, and 45 C.F.R. § 155. WSR 13-14-019, § 182-503-0040, filed 6/24/13, effective 7/25/13.]

**WAC 182-503-0090 Washington apple health—Exceptions to rule.** (1) An individual may request an exception to a Washington apple health financial eligibility rule in Title 182 WAC. An individual must request an exception to rule (ETR) within ninety calendar days of the agency action with which the individual disagrees. The individual or the individual's representative may request an ETR orally or in writing. The request must:

- Identify the rule for which an exception is being requested;
- State what the individual is requesting; and
- Describe how the request meets subsection (2) of this section.

(2) The agency director or designee has the discretion to grant an ETR if he or she determines that the individual's circumstances satisfy the conditions below:

- The exception would not contradict a specific provision of federal or state law; and

(b) The individual's situation differs from the majority; and

(c) It is in the interest of the overall economy and the individual's welfare, and:

(i) It increases opportunity for the individual to function effectively; or

(ii) The individual has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment.

(3) Individuals cannot appeal ETR decisions under chapter 182-526 WAC.

(4) An individual is mailed a decision in writing within ten calendar days when agency staff:

- Approve or deny an ETR request; or
- Request more information.

(5) If the ETR is approved, the notice includes information on the approval period.

(6) The agency designates staff at the aging and disability services administration (ADSA) to process all ETRs specifically relating to long-term care programs described in Title 182 WAC.

(7) This section does not apply to requests that the agency pay for noncovered medical or dental services or related equipment. WAC 182-501-0160 applies to such requests.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (Public Law 111-148), 42 C.F.R. §§ 431, 435, and 457, and 45 C.F.R. § 155. WSR 13-14-019, § 182-503-0090, filed 6/24/13, effective 7/25/13.]

**WAC 182-503-0505 General eligibility requirements for medical programs.** (1) Persons applying for benefits under the medical coverage programs established under chapter 74.09 RCW must meet the eligibility criteria established by the department in chapters 388-400 through 388-555 WAC.

(2) Persons applying for medical coverage are considered first for federally funded or federally matched programs. State-funded programs are considered after federally funded programs are not available to the client except for brief periods when the state-funded programs offer a broad scope of care which meet a specific client need.

(3) Unless otherwise specified in program specific WAC, the eligibility criteria for each medical program is as follows:

(a) Verification of age and identity (chapters 388-404, 388-406, and 388-490 WAC); and

(b) Residence in Washington state (chapter 388-468 WAC); and

(c) Citizenship or immigration status in the United States (chapter 388-424 WAC); and

(d) Possession of a valid Social Security account number (chapter 388-476 WAC); and

(e) Assignment of medical support rights to the state of Washington (WAC 388-505-0540); and

(f) Cooperation in securing medical support (chapter 388-422 WAC); and

(g) Application for medicare and enrollment into medicare's prescription drug program if:

(i) It is likely that the individual is entitled to medicare; and

(ii) The state has authority to pay medicare cost sharing as described in chapter 388-517 WAC.

(h) Countable resources within program limits (chapters 388-470 and 388-478 WAC); and

(i) Countable income within program limits (chapters 388-450 and 388-478 WAC).

(4) In addition to the general eligibility requirements in subsection (3) of this section, each program has specific eligibility requirements as described in applicable WAC.

(5) Persons living in a public institution, including a correctional facility, are not eligible for the department's medical coverage programs. For a person under age twenty or over age sixty-five who is a patient in an institution for mental disease see WAC 388-513-1315(13) for exception.

(6) Persons terminated from SSI or TANF cash grants and those who lose eligibility for categorically needy (CN) medical coverage have their CN coverage continued while their eligibility for other medical programs is redetermined. This continuation of medical coverage is described in chapter 388-434 WAC.

[WSR 12-13-056, recodified as § 182-503-0505, filed 6/15/12, effective 7/1/12. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530, 42 U.S.C., Section 1396a. WSR 07-21-005, § 388-503-0505, filed 10/4/07, effective 11/4/07. Statutory Authority: RCW 74.08.090, 74.09.530, and 2003 1st sp.s. c 25. WSR 04-07-141, § 388-503-0505, filed 3/22/04, effective 4/22/04. Statutory Authority: RCW 74.08.090, 74.08A-100, 74.09.080, and 74.09.415. WSR 02-17-030, § 388-503-0505, filed 8/12/02, effective 9/12/02. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-503-0505, filed 7/31/98, effective 9/1/98. Formerly WAC 388-501-0110, 388-503-0305 and 388-505-0501.]

**WAC 182-503-0510 How a client is determined "related to" a categorical program.** (1) A person is related to the supplemental security income (SSI) program if they are:

(a) Aged, blind, or disabled as defined in chapter 388-475 WAC; or

(b) Considered as eligible for SSI under chapter 388-475 WAC; or

(c) Children meeting the requirements of WAC 388-505-0210(5).

(2) A person or family is considered to be related to the temporary assistance for needy families (TANF) program if they:

(a) Meet the program requirements for the TANF cash assistance programs or the requirements of WAC 388-505-0220; or

(b) Would meet such requirements except that the assistance unit's countable income exceeds the TANF program standards in WAC 388-478-0065.

(3) Persons related to SSI or to TANF are eligible for categorically needy (CN) or medically needy (MN) medical coverage if they meet the other eligibility criteria for these

medical programs. See chapters 388-475, 388-505 and 388-519 WAC for these eligibility criteria.

(4) Persons related to SSI or to TANF and who receive the related CN medical coverage have redetermination rights as described in WAC 388-503-0505(6).

[WSR 12-13-056, recodified as § 182-503-0510, filed 6/15/12, effective 7/1/12. WSR 12-02-034, recodified as § 182-505-0510, filed 12/29/11, effective 1/1/12. Statutory Authority: RCW 34.05.353 (2)(d), 74.08.090, and chapters 74.09, 74.04 RCW. WSR 08-11-047, § 388-503-0510, filed 5/15/08, effective 6/15/08. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530. WSR 05-07-097, § 388-503-0510, filed 3/17/05, effective 4/17/05. Statutory Authority: RCW 74.08.090, 74.08A.100, 74.09.080, and 74.09.415. WSR 02-17-030, § 388-503-0510, filed 8/12/02, effective 9/12/02. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-503-0510, filed 7/31/98, effective 9/1/98.]

**WAC 182-503-0520 Residency requirements for medical care services (MCS).** This section applies to medical care services (MCS).

(1) A resident is an individual who:

(a) Currently lives in Washington and intends to continue living here permanently or for an indefinite period of time; or

(b) Entered the state looking for a job; or

(c) Entered the state with a job commitment.

(2) An individual does not need to live in the state for a specific period of time to be considered a resident.

(3) An individual receiving MCS can temporarily be out of the state for more than one month. If so, the individual must provide the agency or the agency's designee with adequate information to demonstrate the intent to continue to reside in the state of Washington.

(4) An individual may not receive comparable benefits from another state for the MCS program.

(5) A former resident of the state can apply for MCS while living in another state if:

(a) The individual:

(i) Plans to return to this state;

(ii) Intends to maintain a residence in this state; and

(iii) Lives in the United States at the time of the application.

(b) In addition to the conditions in (a)(i), (ii), and (iii) of this subsection being met, the absence must be:

(i) Enforced and beyond the individual's control; or

(ii) Essential to the individual's welfare and is due to physical or social needs.

(c) See WAC 388-406-0035, 388-406-0040, and 388-406-0045 for time limits on processing applications.

(6) Residency is not a requirement for detoxification services.

(7) An individual is not a resident when the individual enters Washington state only for medical care. This individual is not eligible for any medical program. The only exception is described in subsection (8) of this section.

(8) It is not necessary for an individual moving from another state directly to a nursing facility in Washington state to establish residency before entering the facility. The individual is considered a resident if they intend to remain permanently or for an indefinite period unless placed in the nursing facility by another state.

(9) An individual's residence is the state:

(a) Where the parent or legal guardian resides, if appointed, for an institutionalized individual twenty-one years of age or older, who became incapable of determining residential intent before reaching age twenty-one;

(b) Where an individual is residing if the individual becomes incapable of determining residential intent after reaching twenty-one years of age;

(c) Making a placement in an out-of-state institution; or

(d) For any other institutionalized individual, the state of residence is the state where the individual is living with the intent to remain there permanently or for an indefinite period.

(10) In a dispute between states as to which is an individual's state of residence, the state of residence is the state in which the individual is physically located.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-503-0520, filed 9/13/12, effective 10/14/12.]

**WAC 182-503-0530 Citizenship and alien status—Definitions.** For the purposes of determining an individual's citizenship and alien status for health care coverage, the following definitions apply:

(1) **Lawfully present** are immigrants or noncitizens that have been inspected and admitted into the United States and not overstayed the period for which they were admitted, or have current permission from the U.S. Citizenship and Immigrant Services (CIS) to stay or live in the U.S.

(2) **Qualified aliens** are lawfully present immigrants defined in federal law as one of the following:

(a) Individuals lawfully admitted for permanent residence (LPRs).

(b) Individuals who are admitted to the U.S. as refugees under Immigration and Nationality Act (INA) Section 207. The following individuals are treated the same as refugees in their eligibility for public assistance:

(i) Hmong or Highland Lao are members of a Hmong or Highland Laotian tribe which rendered military assistance to the U.S. during the Vietnam era (August 5, 1964, to May 7, 1975), and are "lawfully present" in the U.S. This category also includes the spouse (including unremarried widow or widower) or unmarried dependent child of such tribal members.

(ii) Victims of trafficking, who according to federal law are:

(A) Individuals who have been certified or approved as victims of trafficking by the federal office of refugee resettlement.

(B) Immediate family members of trafficking victims. Immediate family members are the spouse or child of a victim of any age and the parent or minor sibling if the victim is under twenty-one years old.

(iii) Special immigrants from Iraq and Afghanistan are individuals granted special immigrant status under INA Section 101 (a)(27).

(c) Individuals who have been granted asylum under INA Section 208.

(d) Cuban/Haitian entrants. These are nationals of Cuba or Haiti who were paroled into the U.S. or given other special status.

(e) Abused spouses or children, parents of abused children, or children of abused spouses:

(i) When the alien no longer resides with the person who committed the abuse, and has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse of an unmarried child under age twenty-one of a lawful permanent resident (LPR);

(B) A notice of "prima facie" approval of a pending self-petition under the Violence Against Women Act (VAWA); or

(C) Proof of a pending application for suspension of deportation or cancellation of removal under VAWA.

(ii) Children of an abused spouse do not need their own separate pending or approved petition, but are included in their parent's petition if it was filed before they turned twenty-one years old. Children of abused persons who meet the conditions above retain their "qualified alien" status even after they turn twenty-one years old.

(f) Individuals who have been granted parole into the U.S. for at least a period of one year (or indefinitely) under INA Section 212 (d)(5), including "public interest" parolees.

(g) Individuals granted withholding of deportation or removal under INA Section 243(h) or 241 (b)(3).

(h) Individuals who were admitted into the U.S. as conditional entrants under INA Section 203 (a)(7) prior to April 1, 1980.

(i) Amerasians who were born to U.S. citizen armed services members in Southeast Asia during the Vietnam War.

(3) **Nonqualified aliens** are noncitizens who are lawfully present in the U.S. and who are not included in the definition of qualified aliens in subsection (2) of this section. Nonqualified aliens include, but are not limited to:

(a) Citizens of Marshall Islands, Micronesia or Palau;

(b) Immigrants paroled into the U.S. for a period of one year or less;

(c) Immigrants granted temporary protected status;

(d) Abused aliens who are a relative of a U.S. citizen with an approved I-130 petition but not meeting the other requirements of battered immigrants, as described in WAC 182-503-0530;

(e) Abused aliens who have self-petitioned under VAWA but not yet received "Notice of Prima Facie" eligibility as described in WAC 182-503-0530;

(f) Applicants for adjustment of status, asylum, cancellation of removal, suspension of deportation or withholding of deportation or removal;

(g) Deferred action, cancellation of removal, or suspension of deportation granted:

(i) Deferred Action Childhood Arrivals (DACA) are not eligible for federal Washington apple health programs with the exception of the Alien Emergency Medical program.

(ii) If a person is granted cancellation of removal or suspension of deportation based on having been abused or granted deferred action based on an approved self-petition as an abused alien they are a "qualified alien";

(h) Deferred enforced departure granted;

(i) Family Unity granted;

(j) K, S, U, or V statuses, designated on a person's visa, allow holders to work and eventually adjust to lawful permanent resident (LPR) status;

(k) Lawful temporary residents under the amnesty program of the Immigration Reform and Control Act (IRCA),

including those admitted under INA Sections 210 (special agricultural workers) and 245(a);

(l) Order of supervision granted;

(m) Residing in the U.S. since prior to January 1, 1972;

(n) Eligible to petition as special immigrant juveniles. These are juveniles who have been declared a "dependent of the state" and eligible for long-term foster care due to abuse, neglect, or abandonment;

(o) Stay of deportation granted;

(p) Voluntary departure granted - Definite or indefinite time; or

(q) Nonimmigrants who are allowed entry into the U.S. for a specific purpose usually for a limited time are also non-qualified. Examples include:

(i) Business visitors;

(ii) Students; and

(iii) Tourists.

(4) **Undocumented aliens** are noncitizens without a lawful immigration status as defined in subsection (2) or (3) of this section, and who:

(a) Entered the U.S. illegally; or

(b) Were lawfully admitted but whose status expired or was revoked per United States Citizenship and Immigration Services (USCIS).

(5) **U.S. citizens** are one of the following:

(a) Individuals born in the United States or its territories (Guam, Puerto Rico, and the U.S. Virgin Islands; also residents of the Northern Mariana Islands who elected to become U.S. citizens).

(b) American Indians born outside the U.S. without regard to immigration status or date of entry if:

(i) They were born in Canada and are fifty percent American Indian blood (but need not belong to a federally recognized tribe); or

(ii) They are members of a federally recognized Indian tribe or Alaskan Native village or corporation.

(c) Individuals who have become naturalized U.S. citizens.

(d) Individuals born abroad to at least one U.S. citizen parent depending on conditions at the time of their birth, per Title 8, Subchapter III, Section 1401 of the United States Code.

(e) Individuals who turn eighteen years of age on or after February 27, 2001, automatically become U.S. citizens if the following conditions are met while the individual is under age eighteen per INA Section 320.

(i) The individual is granted lawful permanent resident (LPR) status;

(ii) At least one of the individual's parents is a U.S. citizen by birth or naturalization; and

(iii) The individual:

(A) Resides in the U.S. in the legal and physical custody of the citizen parent; or

(B) Was adopted according to the requirements of INA Section 101 and resides in the U.S. in the legal and physical custody of the citizen parent.

(f) Individuals who turned eighteen before February 27, 2001, would have automatically become a citizen if, while the individual was still under eighteen, he or she became a lawful permanent resident and both his or her parents naturalized. Such individuals also may have derived citizenship

when only one parent naturalized, if the other parent was dead or a U.S. citizen by birth, or the individual's parents were separated and the naturalized parent had custody.

(6) **U.S. nationals** are persons who owe permanent allegiance to the U.S. and may enter and work in the U.S. without restriction. The following are the only persons classified as U.S. nationals:

(a) Persons born in American Samoa or Swain's Island after December 24, 1952; and

(b) Residents of the Northern Mariana Islands who did not elect to become U.S. citizens.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (Public Law 111-148), 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 13-14-019, § 182-503-0530, filed 6/24/13, effective 7/25/13.]

#### **WAC 182-503-0532 Citizenship requirements for the medical care services (MCS) and ADATSA programs.**

(1) To receive medical care services (MCS) benefits, an individual must be ineligible for the temporary assistance for needy families (TANF) or the supplemental security income (SSI) program for a reason other than failure to cooperate with program requirements, and belong to one of the following groups as defined in WAC 388-424-0001:

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking; or

(e) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 182-503-0520.

(2) To receive ADATSA benefits, an individual must belong to one of the following groups as defined in WAC 388-424-0001:

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking; or

(e) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 182-503-0520.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-503-0532, filed 9/13/12, effective 10/14/12.]

#### **WAC 182-503-0540 Assignment of rights and cooperation.**

(1) When a person becomes eligible for any of the department's medical programs, they make assignment of certain rights to the state of Washington. This assignment includes all rights to any type of coverage or payment for medical care which results from:

(a) A court order;

(b) An administrative agency order; or

(c) Any third-party benefits or payment obligations for medical care which are the result of **subrogation** or contract (see WAC 388-501-0100).

(2) **Subrogation** is a legal term which describes the method by which the state acquires the rights of a client for whom or to whom the state has paid benefits. The subrogation rights of the state are limited to the recovery of its own costs.

(3) The person who signs the application makes the assignment of rights to the state. Assignment is made on their own behalf and on behalf of any eligible person for whom they can legally make such assignment.

(4) A person must cooperate with the department in the identification, use or collection of third-party benefits. Failure to cooperate results in a termination of eligibility for the responsible person. Other obligations for cooperation are located in chapters 388-14A and 388-422 WAC. The following clients are exempt from termination of eligibility for medical coverage as a result of noncooperation:

- (a) A pregnant woman, and
- (b) Minor children, and
- (c) A person who has been determined to have "good cause" for noncooperation (see WAC 388-422-0015).

(5) A person will not lose eligibility for medical assistance programs due solely to the noncooperation of any third party.

(6) A person will be responsible for the costs of otherwise covered medical services if:

- (a) The person received and kept the third-party payment for those services; or
- (b) The person refused to provide to the provider of care their legal signature on insurance forms.

[WSR 12-13-056, recodified as § 182-503-0540, filed 6/15/12, effective 7/1/12. Statutory Authority: RCW 74.08.090. WSR 01-02-076, § 388-505-0540, filed 12/29/00, effective 1/29/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-505-0540, filed 7/31/98, effective 9/1/98. Statutory Authority: RCW 74.08.090 and 74.09.522. WSR 97-04-005, § 388-505-0540, filed 1/24/97, effective 2/24/97. Statutory Authority: RCW 74.08.090. WSR 94-10-065 (Order 3732), § 388-505-0540, filed 5/3/94, effective 6/3/94. Formerly WAC 388-83-012, 388-501-0170 and 388-505-0560.]

**WAC 182-503-0555 Age requirement for MCS and ADATSA.** To be eligible for medical care services (MCS) or the Alcohol and Drug Addiction Treatment and Support Act (ADATSA) program an individual must be:

- (1) Eighteen years of age or older; or
- (2) For MCS only, if under eighteen years of age, a member of a married couple:
  - (a) Residing together; or
  - (b) Residing apart solely because a spouse is:
    - (i) On a visit of ninety days or less;
    - (ii) In a public or private institution;
    - (iii) Receiving care in a hospital, long-term care facility, or chemical dependency treatment facility; or
    - (iv) On active duty in the uniformed military services of the United States.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-503-0555, filed 9/13/12, effective 10/14/12.]

**WAC 182-503-0560 Impact of fleeing felon status on eligibility for medical care services (MCS).** This section applies to medical care services (MCS).

(1) An individual is considered a **fleeing felon** if the individual is fleeing to avoid prosecution, custody, or confinement for a crime or an attempt to commit a crime that is considered a felony in the place from which the individual is fleeing.

(2) If the individual is a fleeing felon, or who is violating a condition of probation or parole as determined by an admin-

istrative body or court that has the authority to make this decision, is not eligible for MCS benefits.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-503-0560, filed 9/13/12, effective 10/14/12.]