

Chapter 182-503 WAC

PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

182-503-0532	Citizenship requirements for the medical care services (MCS) and ADATSA programs. [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.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-503-0555	Age requirement for MCS and ADATSA. [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.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-503-0560	Impact of fleeing felon status on eligibility for medical care services (MCS). [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.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.

WAC 182-503-0001 Insurance affordability programs—Overview. (1) For the purposes of this chapter, "we" or "us" refers to the agency or its designee and "you" refers to the applicant for, or recipient of, health care coverage.

(2) A person may apply for all of the insurance affordability programs offered through the health care authority (HCA) or the Washington Healthplanfinder (as defined in WAC 182-500-0015):

(a) Washington apple health (WAH) programs (defined in WAC 182-500-0120). WAH includes medicaid programs (defined in WAC 182-500-0070), the children's health insurance program (CHIP) (defined in WAC 182-500-0020), and state-only funded health care programs. These programs are provided free or at low cost on a sliding scale to eligible persons based on their income. WAH program regulations for the application process and eligibility determination are found in chapters 182-503 through 182-527 WAC.

(b) Health insurance premium tax credits (defined in WAC 182-500-0045). This federal refundable tax credit partially offsets the cost of monthly premiums for qualified health plan (QHP) (defined in WAC 182-500-0090) insurance that an eligible person purchases through the Washington Healthplanfinder. Any advance payments of the tax credit are reconciled annually by the Internal Revenue Service (IRS) when the person files his or her federal tax return.

(c) Cost-sharing reductions. Cost-sharing reductions (defined in WAC 182-500-0020) are available to eligible persons enrolled in a silver-level QHP and to American Indians/Alaska Natives enrolled in any QHP.

(3) A person may also apply for and enroll in unsubsidized insurance with a QHP. This unsubsidized insurance is not an insurance affordability program.

(4) Persons choose whether or not to apply for insurance affordability programs. All persons who apply for an insurance affordability program are treated as an applicant for WAH coverage and receive an approval or denial of WAH. Applicants who are denied WAH are reviewed for other insurance affordability programs.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0001, filed 7/29/14, effective 8/29/14.]

WAC 182-503-0005 Washington apple health—How to apply. (1) You may apply for Washington apple health (WAH) by giving us (the medicaid agency or its designee) an application as follows:

(a) For WAH for parents and caretaker relatives, adults, pregnant women, or kids (with or without premiums):

(i) Online via the Washington Healthplanfinder at <http://www.wahealthplanfinder.org>;

(ii) By calling the Washington Healthplanfinder customer support center number;

(iii) By mail to Washington Healthplanfinder, the agency or its designee; or

(iv) By fax to Washington Healthplanfinder.

(b) For WAH medical programs for persons age sixty-five or older, persons on medicare, persons applying for health care based on blindness or disability, or persons applying for long-term care services:

(i) Online via Washington Connection at <http://www.waconnection.org>;

(ii) By mail to community services division of the department of social and health services (DSHS); or

(iii) At a local DSHS office.

(c) For the breast and cervical cancer treatment program (see WAC 182-505-0120), the TAKE CHARGE program (see chapter 182-532 WAC), and the kidney disease program (chapter 182-540 WAC), complete a separate application directly with a program provider.

(d) For the pregnant minor program (see WAC 182-505-0117) and for minors living independently, complete a separate application directly with the agency.

More information on how to give us an application may be found at the agency's web site: <http://www.hca.wa.gov>.

(2) You may start an application for WAH by:

(a) Providing the name of the primary applicant or head of household;

(b) Providing birth dates;

(c) Providing your address and/or telephone number; and

(d) Signing the application.

(3) To complete an application for WAH, you must also give us all of the other information requested on the application form.

(4) If you need help filing an application, you can:

(a) For WAH for parents and caretaker relatives, adults, pregnant women, or kids (with or without premiums):

(i) Contact the Washington Healthplanfinder customer support center number listed on the application form or medical eligibility determination services at the number provided on the agency's web site, <http://www.hca.wa.gov>; or

(ii) Contact an application assistor, certified application counselor or navigator.

(b) For WAH medical programs for persons age sixty-five or older, persons on medicare, persons applying for health care based on blindness or disability, or persons applying for long-term care services:

(i) Visit a local DSHS office; or

(ii) Call the DSHS community services division customer service contact center.

(c) Have an authorized representative apply on your behalf as described in WAC 182-500-0010.

(5) We will help you with the application or renewal process in a manner that is accessible to persons with disabilities as described in WAC 182-503-0120 and in a manner that is accessible to those who are limited-English proficient as described in WAC 182-503-0110.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0005, filed 7/29/14, effective 8/29/14.]

WAC 182-503-0010 Washington apple health—Who can apply. (1) You may apply for Washington apple health (WAH) for yourself.

(2) You can apply for WAH for another person if you are:

(a) A legal guardian;

(b) An authorized representative (as described in WAC 182-500-0010);

(c) A parent or caretaker relative of a child less than nineteen years of age;

(d) A tax filer applying for a tax dependent less than nineteen years of age;

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(e) A spouse; or

(f) A person applying for someone who is unable to apply on their own due to a medical condition and who is in need of long-term care services.

(3) If you reside in an institution of mental diseases (as defined in WAC 182-500-0050(1)) or a public institution (as defined in WAC 182-500-0050(4)), including a Washington state department of corrections facility, city or county jail, or secure community transition facility or total confinement facility (as defined in RCW 71.09.020), and the facility has entered into and is operating under a memorandum of understanding with the agency, the agency will coordinate with the facility for you to get the WAH coverage for which you are determined eligible no later than the day you are released.

(4) You are automatically enrolled in WAH and do not need to turn in an application if you are a:

(a) Supplemental security income (SSI) recipient;

(b) Person deemed to be an SSI recipient under 1619(b) of the SSA;

(c) Newborn as described in WAC 182-505-0210; or

(d) Child in foster care placement as described in WAC 182-505-0211.

(5) You are the primary applicant on an application if you complete and sign the application on behalf of your household.

(6) If you are an SSI recipient, then you, your authorized representative as defined in WAC 182-500-0010, or another person applying on your behalf as described in subsection (2) of this section, must turn in a signed application to apply for long-term care services as described in WAC 182-513-1315.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0010, filed 7/29/14, effective 8/29/14.]

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:

(a) Due to his or her medical condition; or

(b) 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 182-503-0050 Washington apple health—Verification requirements. For the purposes of this section, "we" refers to the agency or its designee and "you" refers to the applicant for, or recipient of, health care coverage. We

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have different eligibility verification processes and standards depending on whether the Washington apple health (WAH) program is a modified adjusted gross income (MAGI)-based WAH program, a non-MAGI-based WAH program, or a deemed eligible program as described in WAC 182-503-0510.

(1) We may ask for verification of information that you give us when you apply, renew, or report a change in your household circumstances.

(2) The following provisions apply to all WAH programs.

(a) We will only require information from you that is both needed to determine eligibility and readily available, which means information that you can get within three business days. If the verification we require costs money, we will pay for it or get the information in another way. After we approve your WAH coverage based on information that is readily available, we may ask for verification information that is more determinative of your eligibility but that may require more than three working days to obtain.

(b) We may consider information from various data sources before asking you to provide verification information. These various data sources include, but are not limited to, those listed below:

- (i) Washington state employment security department;
- (ii) The Internal Revenue Service;
- (iii) United States Department of Homeland Security;
- (iv) The Social Security Administration;
- (v) Other state and federal data bases; and
- (vi) Other commercially available electronic data bases.

(c) After we attempt to verify your information with information from various data sources listed in (b) of this subsection, we may ask you for more information or consider information from third-party contacts, such as employers, landlords, and insurance companies if:

- (i) The information you provided cannot be verified through our data sources;
- (ii) The data-match is not reasonably compatible (as defined in WAC 182-500-0095) with the information you self-attested to or other sources; or
- (iii) The information you self-attested to is contradictory, confusing, or outdated.

(d) When we need more information from you to determine your eligibility for WAH coverage, we send all notices according to the requirements of WAC 182-518-0015 and follow the rules below:

(i) If you are eligible for equal access services as described in WAC 182-503-0120 or limited-English proficiency services as described in WAC 182-503-0110, we help you comply with the requirements of this section.

(ii) We will not deny or delay your application because you fail to provide the information in a particular type or form. We must accept and consider alternative verification.

(iii) If you request more time to provide information, we allow you the time requested.

(iv) We will not deny you eligibility during any time period we have given you to provide more information unless we have conclusive evidence of your ineligibility.

(v) If we do not timely receive your information, we determine your eligibility based on all the information we have received on or before the date of the decision, including

information we obtained from the various data sources listed in (b) of this subsection. If we cannot determine your eligibility, we deny or terminate your WAH coverage and send you a notice that states when we will reconsider the application as described in WAC 182-503-0080.

(vi) Once we verify an eligibility factor that is not subject to change, we will not require ongoing or additional verification of that factor. This includes, but is not limited to, citizenship, family relationships; Social Security numbers; and dates of birth, death, marriage, dissolution of marriage, or legal separation.

(3) If you are applying for MAGI-based programs:

(a) Except as described in (b) of this subsection, we must accept your self-attestation (defined in WAC 182-500-0100) of eligibility factors (including your income and tax deductions). If your self-attestation indicates eligibility, we find you eligible for MAGI-based WAH.

(b) We follow the procedures in subsection (1) of this section and use data-matching to verify your citizenship or immigration status, and Social Security number. If we are unable to verify a required eligibility factor through data-matching, we ask you to provide the verification we need.

(c) After we have determined your eligibility, we may conduct a post-eligibility review to verify your self-attestation. We use various means to verify your circumstances including, but not limited to, information that is available from the sources listed in subsection (2)(b) and (c) of this section and from the following sources:

- (i) The supplemental nutrition assistance program (SNAP).
- (ii) Department of social and health services cash programs, including temporary assistance for needy families (TANF), diversion cash assistance (DCA), refugee cash assistance (RCA), aged, blind, and disabled cash assistance (ABD), and pregnant women's cash assistance (PWA).

(d) If we are unable to verify your self-attested information using the procedures in subsection (1) of this section, we will contact you and may request documentation. If you give us a reasonable explanation that confirms your eligibility, we may not require additional documentation.

(4) If you are applying for non-MAGI-based programs:

(a) We must first verify your eligibility factors according to MAGI-based standards described in subsection (2) of this section. If you are eligible for a MAGI-based WAH program, we must find you eligible for that program.

(b) Even if you are eligible for MAGI-based coverage, we will still consider you for non-MAGI-based programs if the programs offer you services or coverage options that are not available in MAGI-based programs.

(c) We may need additional verification to determine eligibility for non-MAGI-based programs including, but not limited to:

- (i) Income and income deductions;
- (ii) Medical expenses required to meet a spenddown liability (see WAC 182-519-0110);
- (iii) Medical expenses and other post-eligibility deductions used to determine eligibility for long-term care programs (see WAC 182-513-1380);
- (iv) Resources; and
- (v) Any other questionable information.

(d) Additional eligibility factors and verification standards are described in:

- (i) Chapter 182-507 WAC, refugee medical and alien medical programs;
- (ii) Chapter 182-508 WAC, medical care services;
- (iii) Chapter 182-511 WAC, WAH for workers with disabilities;
- (iv) Chapter 182-512 WAC, SSI-related medical programs;
- (v) Chapters 182-513 and 182-515 WAC, SSI-related long-term care programs;
- (vi) Chapter 182-517 WAC, medicare savings programs; and
- (vii) Chapter 182-519 WAC, medically needy and spenddown programs.

(5) If you are deemed eligible for one of the programs described in WAC 182-503-0510(4), we do not require additional verification of information from you.

[Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (Public Law 111-148), 42 C.F.R. §§ 431, 435, 457 and 45 C.F.R. § 155. WSR 14-07-059, § 182-503-0050, filed 3/14/14, effective 4/14/14.]

WAC 182-503-0060 Washington apple health (WAH)—Application processing times. (1) We process applications for Washington apple health (WAH) within forty-five calendar days, with the following exceptions:

- (a) If you are pregnant, we process your application within fifteen calendar days;
- (b) If you are applying for a program that requires a disability decision, we process your application within sixty calendar days; or
- (c) The modified adjusted gross income (MAGI)-based WAH application process using Washington Healthplanfinder may provide faster or real-time determination of eligibility for medicaid.

(2) For calculating time limits, "day one" is the day we get an application from you that includes at least the information described in WAC 182-503-0005(2). If you give us your paper application during business hours, "day one" is the day you give us your application. If you give us your paper application outside of business hours, "day one" is the next business day. If you experience technical difficulties while attempting to give us your application in Washington Healthplanfinder, "day one" is the day we are able to determine, based on the evidence available, that you first tried to submit an application that included at least the information described in WAC 182-503-0005(2).

(3) We determine eligibility as quickly as possible and respond promptly to applications and information received. We do not delay a decision by using the time limits in this section as a waiting period.

(4) If we need more information to decide if you can get WAH coverage, we will send you a letter within twenty calendar days of your initial application that:

- (a) Follows the rules in chapter 182-518 WAC;
- (b) States the additional information we need; and
- (c) Allows at least ten calendar days to provide it. We will allow you more time if you ask for more time or need an accommodation due to disability or limited-English proficiency.

(5) Good cause for a delay in processing the application exists when we acted as promptly as possible but:

- (a) The delay was the result of an emergency beyond our control;
- (b) The delay was the result of needing more information or documents that could not be readily obtained;
- (c) You did not give us the information within the time frame specified in subsection (1) of this section.
- (6) Good cause for a delay in processing the application does NOT exist when:
 - (a) We caused the delay in processing by:
 - (i) Failing to ask you for information timely; or
 - (ii) Failing to act promptly on requested information when you provided it timely; or
 - (b) We did not document the good cause reason before missing a time frame specified in subsection (1) of this section.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0060, filed 7/29/14, effective 8/29/14.]

WAC 182-503-0070 Washington apple health (WAH)—When coverage begins. (1) Your Washington apple health (WAH) coverage starts on the first day of the month you applied for and we decided you are eligible to receive coverage, unless one of the exceptions in subsection (4) of this section applies to you.

(2) Sometimes we can start your coverage up to three months before the month you applied (see WAC 182-504-0005).

(3) If you are confined or incarcerated as described in WAC 182-503-0010, your coverage cannot start before the day you are discharged, except when:

- (a) You are hospitalized during your confinement; and
 - (b) The hospital requires you to stay overnight.
- (4) Your WAH coverage may not begin on the first day of the month if:

(a) Subsection (3) of this section applies to you. In that case, your coverage would start on the first day of your hospital stay;

(b) You must meet a medically needy spenddown liability (see WAC 182-519-0110). In that case, your coverage would start on the day your spenddown is met; or

(c) You are eligible under the WAH alien emergency medical program (see WAC 182-507-0115). In that case, your coverage would start on the day your emergent hospital stay begins.

(5) For long-term care, the date your services start is described in WAC 388-106-0045.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0070, filed 7/29/14, effective 8/29/14.]

WAC 182-503-0080 Washington apple health—Application denials and withdrawals. (1) We follow the rules about notices and letters in chapter 182-518 WAC. We follow the rules about timelines in WAC 182-503-0060.

(2) We deny your application for Washington apple health (WAH) coverage when:

- (a) You tell us either orally or in writing to withdraw your request for coverage; or

(b) Based on all information we have received from you and other sources within the time frames stated in WAC 182-503-0060, including any extra time given at your request or to accommodate a disability or limited-English proficiency:

- (i) We are unable to determine that you are eligible; or
- (ii) We determine that you are not eligible.

(3) We send you a written notice explaining why we denied your application (per chapter 182-518 WAC).

(4) We reconsider our decision to deny your WAH coverage without a new application from you when:

(a) We receive the information that we need to decide if you are eligible within thirty days of the date on the denial notice; or

(b) You request a hearing within ninety days of the date on the denial letter and an administrative law judge (ALJ) or HCA review judge decides our denial was wrong (per chapter 182-526 WAC).

(5) If you disagree with our decision, you can ask for a hearing. If we denied your application because we don't have enough information, the ALJ will consider the information we already have and anymore information you give us. The ALJ does not consider the previous absence of information or failure to respond in determining if you are eligible.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0080, filed 7/29/14, effective 8/29/14.]

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:

- (a) Identify the rule for which an exception is being requested;
- (b) State what the individual is requesting; and
- (c) 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:

(a) 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:

- (a) Approve or deny an ETR request; or
- (b) 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 182-503-0100 Washington apple health—Rights and responsibilities. For the purposes of this chapter, "we" refers to the agency or its designee and "you" refers to the applicant for, or recipient of, health care coverage.

(1) If you are applying for or receiving health care coverage, you have the right to:

(a) Have your rights and responsibilities explained to you and given in writing;

(b) Be treated politely and fairly without regard to your 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) Ask for health care coverage using any method listed under WAC 182-503-0010 (if you ask us for a receipt or confirmation, we will provide one to you);

(d) Get help completing your application if you ask for it;

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

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

(g) Have personal information kept confidential; we may share information with other state and federal agencies for purposes of eligibility and enrollment in Washington apple health;

(h) Get written notice, in most cases, at least ten calendar days before the agency or its designee denies, terminates, or changes coverage;

(i) Ask for an appeal if you disagree with a decision we make. You can also ask a supervisor or administrator to review our decision or action without affecting your right to a fair hearing;

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

(k) Ask for voter registration assistance;

(l) Refuse to speak to an investigator if we audit your case. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. Such a request will not affect your eligibility for health care coverage;

(m) Get equal access services under WAC 182-503-0120 if you are eligible;

(n) Ask for support enforcement services through the division of child support; and

(o) Refuse to cooperate with us in identifying, using, or collecting third-party benefits (such as medical support) if you fear, and can verify, that your cooperating with us could result in serious physical or emotional harm to you, your children, or a child in your care. Verification may include one of the following:

(i) A statement you sign, outlining your fears and concerns;

(ii) Civil or criminal court orders (such as domestic violence protection orders, restraining orders, and no-contact orders);

(iii) Medical, police, or court reports; or

(iv) Written statement from clergy, friends, relatives, neighbors, or co-workers.

(2) You are responsible to:

(a) Report changes in your household or family circumstances as required under WAC 182-504-0105 and 182-504-0110;

(b) Give us any information or proof needed to determine eligibility. If you have trouble getting proof, we help you get the proof or contact other persons or agencies for it;

(c) Assign the right to medical support as described in WAC 182-505-0540, unless you can submit verification (which may include one of the items listed in subsection (1)(o) of this section) that your cooperating with us could result in serious physical or emotional harm to you, your children, or a child in your care;

(d) Complete renewals when asked;

(e) Apply for and make a reasonable effort to get potential income from other sources when available;

(f) Give medical providers information needed to bill us for health care services; and

(g) Cooperate with quality assurance or post enrollment review staff when asked.

[Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-06-068, § 182-503-0100, filed 2/28/14, effective 3/31/14.]

WAC 182-503-0110 Washington apple health—Limited-English proficient (LEP) services. (1) We provide interpreter and translation services (limited-English proficient or LEP services) free of charge to you if you have limited ability to read, write, and/or speak English. Interpreter services are those used for oral communication between two parties who do not speak the same language. Translation services are those used for written communication.

(2) We provide LEP services in your primary language.

(a) A primary language is the language you tell us that you wish to use when communicating with us. You may designate at least one primary language for oral communications and at least one primary language for written communications, and you may designate a different primary language for oral and for written communications.

(b) We note your primary languages in a record available to the agency, its designee, and health benefit exchange employees.

(3) We can provide LEP services through bilingual workers and/or contracted interpreters and translators who are expected to be competent. We consider a bilingual worker or a contracted interpreter or translator to be competent if he or she is:

(a) Certified for interpreting and/or translating in the language by the language testing and certification program of the department of social and health services;

(b) Certified or otherwise determined to be competent for interpreting and/or translating in the language by an association or organization with a regional or national reputation for certifying or determining the competence of interpreters and/or translators; or

(c) Determined competent for interpreting and/or translating in the language by us, taking into account his or her:

(i) Demonstrated proficiency in both English and the other language;

(ii) Orientation and training that includes the skills and ethics of interpreting;

(iii) Fundamental knowledge in both languages of any specialized terms or concepts peculiar to Washington apple health;

(iv) Sensitivity to cultural differences; and

(v) Demonstrated ability to convey information accurately in both languages.

(4) We provide notice of the availability of LEP services on printed applications and notices, in the Washington healthplanfinder web site, and during contact with persons who appear to need LEP services.

(5) LEP services include:

(a) Spoken language interpreter (oral) services in person, over the telephone, or through other simultaneous audio or visual transmission (if available); and

(b) Translation of our forms, letters, and other text-based materials, whether printed in hard-copy or stored and presented by computer. These include, but are not limited to:

(i) Our pamphlets, brochures, and other informational material that describe our services and your health care rights and responsibilities;

(ii) Our applications and other forms you need to complete and/or sign; and

(iii) Notices of our actions affecting your eligibility for health care coverage.

(c) Direct provision of services by our bilingual employees.

(6) We provide interpreter services and translated documents in a prompt manner that allows the timely processing of your eligibility for health care coverage within time frames defined in WAC 182-503-0060, 182-503-0035, and 182-504-0125.

(7) If you believe that we have discriminated against you on the basis of race, color, national origin, birthplace, or another protected status, you may file a complaint with the U.S. Department of Health and Human Services at <http://www.hhs.gov/ocr/civilrights/complaints> or Regional Manager, Office of Civil Rights, U.S. Department of Health and Human Services, 2201 Sixth Ave. - M/S: RX-11, Seattle, WA 98121-1831 (voice phone 800-368-1019, fax 206-615-2297, TDD 800-537-7697).

[Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-06-068, § 182-503-0110, filed 2/28/14, effective 3/31/14.]

WAC 182-503-0120 Washington apple health—Equal access services. (1) When you have a mental, neurological, cognitive, physical or sensory impairment, or limita-

tion that prevents you from receiving health care coverage, we provide services to help you apply for, maintain, and understand the health care coverage options available and eligibility decisions we make. These services are called equal access (EA) services.

(2) We provide EA services on an ongoing basis to ensure that you are able to maintain health care coverage and access to services we provide. EA services include, but are not limited to:

(a) Helping you to:

(i) Apply for or renew coverage;

(ii) Complete and submit forms;

(iii) Give us information to determine or continue your eligibility;

(iv) Ask for continued coverage;

(v) Ask for reinstated (restarted) coverage after your coverage ends; and

(vi) Ask for and participate in a hearing.

(b) Giving you additional time, when needed, for you to give us information before we reduce or end your health care coverage;

(c) Explaining our decision to change, reduce, end, or deny your health care coverage;

(d) Working with your authorized representative, if you have one, and giving that person copies of notices and letters we send you; and

(e) Providing you the services of a sign language interpreter/transliterators who is certified by the Registry of Interpreters for the Deaf at the appropriate level of certification.

(i) These services may include in-person sign language interpreter services, relay interpreter services, and video interpreter services, as well as other services; we decide which services to offer you based on your communication needs and preferences.

(ii) We offer these services as a reasonable accommodation, free of charge, if you are deaf, hard-of-hearing, or a deaf-blind person who uses sign language to communicate.

(f) Not taking adverse action in your case, or automatically reinstating your coverage for up to three months after the adverse action was taken, if we determine that your impairment or limitation was the cause of your failure to follow through on something you need to do to get or keep your Washington apple health coverage, such as:

(i) Applying for or renewing coverage;

(ii) Completing and submitting forms;

(iii) Giving us information to determine or continue your eligibility;

(iv) Asking for continued or reinstated coverage; or

(v) Asking for and participating in a hearing.

(3) We inform you of your right to EA services listed in subsection (2) of this section:

(a) On printed applications and notices, including the printed rights and responsibilities form;

(b) In the Washington healthplanfinder web site, including the electronic rights and responsibilities form; and

(c) During contact with us.

(4) We provide you the EA services listed in subsection (2) of this section if you ask for EA services, you are receiving services through the aging and long-term support administration, or we determine that you would benefit from EA

services. We determine you would benefit from EA services if you:

(a) Appear to have or claim to have any impairment or limitation described in subsection (1) of this section;

(b) Have a developmental disability;

(c) Are disabled by alcohol or drug addiction;

(d) Are unable to read or write in any language;

(e) Appear to have limitations in your ability to communicate, understand, remember, process information, exercise judgment and make decisions, perform routine tasks, or relate appropriately with others (whether or not you have a disability) that may prevent you from understanding the nature of EA services or affect your ability to access our programs; or

(f) Are a minor not residing with your parents.

(5) If we determine that you are eligible for EA services, we develop and document an EA plan appropriate to your needs. The plan may be updated or changed at any time based on your request or a change in your needs.

(6) You may at any time refuse the EA services offered to you.

(7) We reinstate your coverage when:

(a) We end coverage because we were unable to determine if you continue to qualify; and

(b) You provide proof that you are still qualified for coverage within twenty calendar days from when we ended your coverage. We restore your coverage retroactive to the first of the month so there is no break in your coverage.

(8) If you believe that we have discriminated against you on the basis of a disability or another protected status, the person may file a complaint with the U.S. Department of Health and Human Services at <http://www.hhs.gov/ocr/civilrights/complaints> or Region Manager, Office for Civil Rights, U.S. Department of Health and Human Services, 2201 Sixth Ave. - M/S: RX-11, Seattle, WA 98121-1831 (voice phone 800-368-1019, fax 206-615-2297, TDD 800-537-7697).

[Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-06-068, § 182-503-0120, filed 2/28/14, effective 3/31/14.]

WAC 182-503-0505 Washington apple health—General eligibility requirements. (1) Persons applying for Washington apple health (WAH) programs established under chapter 74.09 RCW must meet the eligibility criteria in chapters 182-500 through 182-527 WAC.

(2) Persons applying for WAH are considered first for federally funded or federally matched programs. State-funded programs are considered after the person is determined ineligible for federally funded and federally matched programs.

(3) Unless otherwise specified in a program specific WAC, the eligibility criteria for each WAH program are as follows:

(a) Age (WAC 182-503-0050);

(b) Residence in Washington state (WAC 182-503-0520 and 182-503-0525);

(c) Citizenship or immigration status in the United States (WAC 182-503-0535);

(d) Possession of a valid Social Security account number (WAC 182-503-0515);

(e) Assignment of medical support rights to the state of Washington (WAC 182-503-0540);

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

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

(ii) The state has authority to pay medicare cost sharing as described in chapter 182-517 WAC.

(g) For persons whose eligibility is not on the basis of modified adjusted gross income (MAGI) methodology, countable resources must be within specific program limits (chapters 182-512, 182-513, 182-515, 182-517, and 182-519 WAC); and

(h) Countable income within program limits:

(i) For MAGI-based WAH programs, see WAC 182-505-0100;

(ii) For the WAH refugee program, see WAC 182-507-0110;

(iii) For the WAH medical care services program, see WAC 182-508-0150;

(iv) For WAH for workers with disabilities (HWD), see WAC 182-511-0060;

(v) For the WAH SSI-related program, see WAC 182-512-0010;

(vi) For WAH long-term care programs, see WAC 182-513-1300 and 182-515-1500;

(vii) For WAH medicare savings programs, see WAC 182-517-0100; and

(viii) For the WAH medically needy program, see WAC 182-519-0050.

(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 in a public institution, including a correctional facility, are not eligible for WAH programs, except in the following situations:

(a) The person is under age twenty or over age sixty-five and is a patient in an institution for mental disease (see WAC 182-513-1315(13)); or

(b) The person receives inpatient hospital services outside of the public institution or correctional facility.

(6) Persons terminated from SSI or who lose eligibility for categorically needy (CN) or alternative benefits plan (ABP) coverage receive coverage under the WAH program with the highest scope of care for which they may be eligible while their eligibility for other health care programs is determined. See WAC 182-504-0125.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0505, filed 7/29/14, effective 8/29/14. 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 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 programs;

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

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

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

(iii) Other WAH 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 programs.

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

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

(b) MAGI-based WAH 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 for pregnant women program described in WAC 182-505-0115;

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

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

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

(g) WAH 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 program.

(3) Non-MAGI-based WAH 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 for workers with disabilities (HWD) described in chapter 182-511 WAC;

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

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

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

(v) WAH 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 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 for pregnant minors described in WAC 182-505-0117; and

(v) WAH kidney disease program described in chapter 182-540 WAC.

(4) Deemed eligible WAH programs include:

(a) WAH 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 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 program at any time.

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

[Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-06-068, § 182-503-0510, filed 2/28/14, effective 3/31/14. 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 182-503-0515 Washington apple health—Social Security number requirements. (1) To be eligible for Washington apple health (WAH), you must provide your valid Social Security number (SSN) or proof of application

for an SSN, except as provided in subsections (5) and (6) of this section.

(2) If you are not able to provide your SSN, either because you do not know it or it has not been issued, you must provide:

(a) Proof from the Social Security Administration (SSA) that you turned in an application for an SSN; and

(b) The SSN when you receive it.

(3) Your WAH coverage will not be delayed, denied or terminated while waiting for SSA to send you your SSN.

(4) If you do not provide your SSN, then you will not receive WAH coverage except if you:

(a) Refused to apply for or provide your SSN for religious reasons;

(b) Claim good cause for not providing your SSN because of domestic violence;

(c) Have a newborn as described in WAC 182-505-0210(1). A newborn is eligible for WAH coverage until the baby's first birthday.

(5) There is no SSN requirement for the following:

(a) WAH refugee medical;

(b) WAH alien emergency medical;

(c) WAH programs for children and pregnant women who do not meet citizenship criteria described in WAC 182-503-0535;

(d) A household member who is not applying for WAH coverage.

(6) If you are a "qualified" or "nonqualified" alien as defined in WAC 182-503-0530 who is not authorized to work in the U.S., you do not have to apply for a nonwork SSN.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0515, filed 7/29/14, effective 8/29/14.]

WAC 182-503-0520 Washington apple health—Residency requirements—Persons who are not residing in an institution. (1) A resident is a person (including an emancipated person under age eighteen and a married person under age eighteen who is capable of indicating intent) who currently lives in Washington and:

(a) Intends to reside here, including persons without a fixed address; or

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

(c) Entered the state with a job commitment.

(2) A person does not need to live in the state for a specific period of time prior to meeting the requirements in subsection (1) of this section before being considered a resident.

(3) A child under age eighteen who is not covered by subsection (1) of this section, is a resident if:

(a) The child lives in the state, with or without a fixed address, including with a custodial parent or caretaker; or

(b) The child's parent or caretaker is a resident as defined in subsection (1) of this section.

(4) A resident applying for or receiving health care coverage can temporarily be out of the state for more than one month without their health care coverage being denied or terminated, if the person:

(a) Intends to return to the state once the purpose of his or her absence has been accomplished and provides adequate information of this intent after a request by the agency or its designee; and

(b) Has not been determined eligible for medicaid or state-funded health care coverage in another state (other than coverage in another state for incidental or emergency health care).

(5) A person who enters Washington state only for health care is not a resident and is not eligible for any medical program. The only exception is for a person who moves from another state directly into an institution in Washington state. Residency rules for institutionalized persons are described in WAC 182-503-0525.

(6) A person of any age who receives a state supplemental payment (SSP) is considered a resident of the state that is making the payment.

(7) A person who receives federal payments for foster or adoption assistance is considered a resident of the state where the person physically resides even if:

(a) The person does not live in the state that is making the foster or adoption assistance payment; or

(b) The person does not live in the state where the adoption agreement was entered.

(8) In a dispute between states, the state of residence is the state in which the person is physically located.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0520, filed 7/29/14, effective 8/29/14. 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 182-503-0525 Washington apple health—Residency requirements for an institutionalized person. (1)

An institutionalized person is a person who resides in an institution as defined in WAC 182-500-0050. The term "person" used in this section means an "institutionalized person" unless otherwise indicated. It does not include persons who receive services under a home and community-based waiver program. When a state is making a placement for a person in another state, the term institution also includes foster care homes, licensed as described in 45 C.F.R. 1355.20.

(2) The agency must determine whether a person is capable of indicating their intent to reside in Washington state when deciding whether that person is a resident of the state. The agency determines that persons who meet the following criteria are deemed incapable of indicating intent to reside in the state:

(a) The person is judged legally incompetent by a court of law;

(b) A physician, psychologist or licensed medical professional in the field of intellectual disabilities has determined that the person is incapable of indicating intent; or

(c) The person is incapable of declaring intent due to a documented medical condition.

(3) When a person is placed in an out-of-state institution by the agency, its designee or by a department of social and health services-contracted agency, the state arranging the placement is considered the person's state of residence, unless the person is capable of expressing intent and:

(a) Indicates a desire to change his or her state of residence; or

(b) Asks the current state of residence for help in relocating. This may include assistance in locating an institutional placement in the new state of residence.

(4) If another state has not authorized the placement in the institution, as described in subsection (3) of this section, the agency or its designee uses one of the following criteria to determine the state of residence for a person who is age twenty or younger:

(a) The state of residence is the state where the parent or legal guardian is a resident at the time of the placement in the institution. To determine a parent's or legal guardian's place of residence, follow rules described in WAC 182-503-0520 for a noninstitutionalized person.

(b) The state of residence is the state where the parent or legal guardian currently is a resident if the person resides in an institution in that state.

(c) If the parents of the person are separated and live in different states, the state of residence is that of the parent filing the application.

(d) If the parental rights are terminated and the person has a legal guardian, the state of residence is where the legal guardian is a resident.

(e) If the person has both a guardian of the estate and a guardian of the person, the state of residence is where the guardian of the person is a resident, unless the state has laws which delegate guardianship to a state official or agency for persons who are admitted to state institutions. In that case, the state of residence for the person is the state where the institution is located (unless another state has authorized the placement).

(f) If the person has been abandoned by the parents or legal guardian, and an application is filed on their behalf by another party, the state of residence is the state where the person is institutionalized. The term abandoned also includes situations where the parents or legal guardian are deceased.

(5) A person age twenty-one or older that is capable of indicating intent is considered a resident of the state where he or she is living and intends to reside.

(6) A person age twenty-one or older who became incapable of indicating intent at age twenty-one or older is considered a resident of the state where the person is physically residing, unless the person has been placed in the institution by another state.

(7) A person age twenty-one or older who became incapable of indicating intent before the age of twenty-one is considered a resident of the state where the parents or legal guardian were residents at the time of the placement in the institution.

(8) If a noninstitutionalized person moves directly from another state to an institution in Washington state, it is not necessary for the person to establish residency in Washington state prior to entering the facility. The person is considered a resident if he or she intends to reside in the state unless the placement was made by the other state.

(9) A person of any age who receives a state supplemental payment (SSP) is considered a resident of the state that is making the payment.

(10) In a dispute between states, the state of residence is the state in which the person is physically located.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0525, filed 7/29/14, effective 8/29/14.]

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 182-503-0535 Washington apple health—Citizenship and alien status. (1) To receive Washington apple health (WAH) coverage, you must meet all other eligibility requirements and be one of the following as defined in WAC 182-503-0530:

(a) A United States (U.S.) citizen;

(b) A U.S. national;

(c) A qualified alien; or

(d) A nonqualified alien and you are a:

(i) Pregnant woman;

(ii) Person who is otherwise eligible for medical care services (see WAC 182-508-0005);

(iii) Child under age nineteen; or

(iv) Child under age twenty-one who resides in an institution.

(2) If you are a nonqualified alien approved under deferred action childhood arrivals (DACA), then you are not eligible for WAH under subsection (1)(d) of this section. However, you may qualify under subsection (6) of this section.

(3) If you are a qualified alien as defined in WAC 182-503-0530, who physically entered the U.S. before August 22, 1996, you may receive WAH for nonpregnant adults if you:

(a) Became a qualified alien before August 22, 1996; or

(b) Became a qualified alien on or after August 22, 1996, and have continuously resided in the U.S. between your date of entry into the U.S. and the date on which you became a qualified alien.

(4) If you are a qualified alien who physically entered the U.S. on or after August 22, 1996, and you are a nonpregnant adult, you are not eligible to receive WAH for five years beginning on the day you most recently became a qualified alien, unless you meet one of the exemptions in subsection (5) of this section. This is called the five-year bar. The five-year bar starts on the day you obtain qualified alien status.

(5) You are exempt from the five-year bar if you are one of the following qualified aliens as defined in WAC 182-503-0530:

(a) Amerasian lawful permanent residents;

(b) Asylees;

(c) Cuban/Haitian entrants;

(d) Persons granted withholding of deportation or removal;

(e) Refugees;

(f) Special immigrants from Iraq and Afghanistan;

(g) Victims of trafficking who have been certified or had their eligibility approved by the Office of Refugee Resettlement (ORR); and

(h) 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; and

(i) Lawful permanent residents, parolees, or battered aliens, who are also an armed services member or veteran, or a family member of an armed services member or veteran, as described below:

(i) On active duty in the U.S. military, other than active duty for training;

(ii) An honorably discharged U.S. veteran;
 (iii) A veteran of the military forces of the Philippines who served prior to July 1st, 1946, as described in Title 38, Section 107 of the U.S. Code; or

(iv) The spouse, unremarried widow or widower, or unmarried dependent child of a veteran or active duty service member.

(6) If you are ineligible for WAH because of the five-year bar or because of your immigration status, including if you are approved under DACA, you may be eligible for:

(a) The WAH alien emergency medical program as described in WAC 182-507-0110 through 182-507-0125;

(b) WAH pregnancy medical for noncitizen women as described in WAC 182-505-0115;

(c) WAH for kids for pregnant minors as described in WAC 182-505-0117;

(d) State-funded WAH for kids as described in WAC 182-505-0210; or

(e) The medical care services (MCS) program as described in chapter 182-508 WAC.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0535, filed 7/29/14, effective 8/29/14.]

WAC 182-503-0540 Assignment of rights and cooperation. (1) When you become eligible for any of the agency's health care programs, you assign certain rights to the state of Washington. You assign all rights to any type of coverage or payment for health care that comes 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) When you sign the application you assign the rights described in subsection (1) of this section to the state for:

(a) Yourself; and

(b) Any eligible person for whom you can legally make such assignment.

(3) You must cooperate with us in identifying, using or collecting third-party benefits. If you do not cooperate, your health care coverage may end unless you can show good reason not to cooperate with us. Examples of good reason include, but are not limited to:

(a) Your reasonable belief that cooperating with us would result in serious physical or emotional harm to you, a child in your care, or a child related to you; and

(b) Your being incapacitated without the ability to cooperate with us.

(4) Your WAH coverage will not end due solely to the noncooperation of any third party.

(5) You will have to pay for your health care services if you:

(a) Received and kept the third-party payment for those services; or

(b) Refused to give to the provider of care your legal signature on insurance forms.

(6) The state is limited to the recovery of its own costs for health care costs paid on behalf of a recipient of health care coverage. The legal term which describes the method by

which the state acquires the rights of a person for whom the state has paid costs is called subrogation.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0540, filed 7/29/14, effective 8/29/14. 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 182-503-0565 Washington apple health—Age requirements for medical programs based on modified adjusted gross income (MAGI). The following age requirements apply to persons whose eligibility for Washington apple health (WAH) is based on modified adjusted gross income (MAGI) methodology per WAC 182-509-0305.

(1) You must be age sixty-four or younger to be eligible for WAH MAGI-based adult coverage as described in WAC 182-505-0250.

(2) Your household must include an eligible dependent child age seventeen or younger to be eligible for WAH parent or caretaker relative coverage as described in WAC 182-505-0240. For purposes of this subsection, an "eligible dependent child" is a child related to you in one of the ways described in WAC 182-500-0020.

(3) A child must be age eighteen or younger to be eligible for WAH for kids as described in WAC 182-505-0210 with the following exceptions:

(a) An institutionalized child may still qualify under a children's health care program through the age of twenty-one (see WAC 182-514-0230);

(b) A foster care child may qualify for WAH foster care coverage through the age of twenty-six (see WAC 182-505-0211).

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0565, filed 7/29/14, effective 8/29/14.]