

Chapter 182-520 WAC

FRAUD REFERRALS AND OVERPAYMENTS

WAC

182-520-0005	Washington apple health fraud referrals and overpayments.
182-520-0010	Washington apple health overpayments resulting from an administrative hearing.
182-520-0015	Long-term services and supports client overpayments.

WAC 182-520-0005 Washington apple health fraud referrals and overpayments. (1) The agency or the agency's designee may refer a case to the office of fraud and accountability for a fraud investigation when it has reliable information that the person purposely misrepresented their circumstances in order to qualify for Washington apple health.

(2) When a fraud investigation reveals substantial evidence to support a finding of fraud, the case is referred for prosecution. The prosecuting attorney's office decides which cases will be prosecuted.

(3) When a referral results in a conviction, an overpayment amount for the cost of the apple health coverage is established.

(4) The person is responsible to pay the agency for the amount of overpayment established as a result of a fraud conviction.

[Statutory Authority: RCW 41.05.021, 41.05.160, 41.05A.005, 41.05.010, and 74.09.741. WSR 16-13-059, § 182-520-0005, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-520-0005, filed 12/9/13, effective 1/9/14.]

WAC 182-520-0010 Washington apple health overpayments resulting from an administrative hearing. (1) If a person asks for Washington apple health coverage to continue during an appeal, he or she must pay the agency for the cost of that coverage if both (a) and (b) of this subsection occur:

(a) The administrative law judge, or review judge if applicable, enters an order:

(i) That the person was not eligible for apple health coverage during the appeal;

(ii) Dismissing the hearing under WAC 182-526-0285 (3) because the person defaulted (did not attend or refused to participate) and the agency's action that was appealed included a finding that the person was not eligible for apple health coverage; or

(iii) Dismissing the hearing under WAC 182-526-0285 (4) due to a written agreement between all the parties that the person will pay for an overpayment of the cost of apple health coverage.

(b) The agency decides to collect the overpayment.

(2) The overpayment amount is limited to payments for apple health coverage that were spent:

(a) During the sixty days following receipt of the hearing request; and

(b) For a person who was not eligible for apple health coverage.

(3) The agency will not attempt to recover an apple health overpayment from a nonneedy caretaker relative or guardian except in the case of fraud by the caretaker relative or guardian as described in WAC 182-520-0005.

[Statutory Authority: RCW 41.05.021, 41.05.160, 41.05A.005, 41.05.010, and 74.09.741. WSR 16-13-059, § 182-520-0010, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-520-0010, filed 12/9/13, effective 1/9/14.]

WAC 182-520-0015 Long-term services and supports client overpayments. (1) **General right to recover.**

(a) A long-term services and supports (LTSS) client overpayment is any payment for LTSS made by the agency or the agency's designee on a client's behalf in excess of that to which the client is legally entitled.

(b) An LTSS client overpayment may be caused by:

(i) A client or a client's authorized representative misstating or failing to reveal a fact affecting eligibility under WAC 182-503-0505;

(ii) A client or a client's authorized representative failing to timely report a change required under WAC 182-504-0105; or

(iii) The agency or the agency's designee's error.

(c) The agency or the agency's designee may recoup an LTSS client overpayment:

(i) Up to six years after the date of the notice in subsection (2) of this section; and

(ii) Regardless of whether the program is state-funded, federally funded, or both.

(d) The amount of the LTSS client overpayment equals the amount the agency or the agency's designee paid on the client's behalf minus the amount to which the client was legally entitled.

(2) **Notice.**

(a) The agency notifies the client or the client's authorized representative by:

(i) Personal service under RCW 4.28.080; or

(ii) Certified mail, return receipt requested.

(b) The agency or the agency's designee may prove that it notified the client by providing:

(i) A sworn statement;

(ii) An affidavit or certificate of mailing; or

(iii) The certified mail receipt signed by the client or the client's authorized representative.

(c) The notice states:

(i) The client's name;

(ii) The client's address;

(iii) The date the agency or the agency's designee issued the notice;

(iv) The amount of the LTSS client overpayment;

(v) How the agency calculated the LTSS client overpayment;

(vi) How the client may request an administrative hearing; and

(vii) How the client may make a payment.

(3) Response.

(a) The client must respond to the notice within ninety days of the date the agency or the agency's designee served the client with the notice of the LTSS client overpayment by:

(i) Paying the agency or the agency's designee;

(ii) Establishing a payment plan with the agency or the agency's designee; or

(iii) Requesting an administrative hearing.

(b) If the client does not respond to the notice within ninety days of the date the agency or the agency's designee served the client with the notice, the agency or the agency's designee may initiate collection action.

(4) Hearings. A person who disagrees with agency or the agency's designee's action under this section may request an administrative hearing under chapter 182-526 WAC.

[Statutory Authority: RCW 41.05.021, 41.05.160, 41.05A.005, 41.05.010, and 74.09.741. WSR 16-13-059, § 182-520-0015, filed 6/13/16, effective 7/14/16.]