

WSR 24-15-098

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed July 22, 2024, 7:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-12-052.

Title of Rule and Other Identifying Information: WAC 182-512-0600 SSI-related medical—Definition of income, 182-512-0650 SSI-related medical—Available income, and 182-512-0800 SSI-related medical—General income exclusions.

Hearing Location(s): On August 27, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_Jx4tOCLyTByfJfI1Pj88Cg. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than August 28, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning July 23, 2024, 8:00 a.m., by August 27, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunications relay service 711, email Johanna.Larson@hca.wa.gov, by August 16, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending WAC 182-512-0600, 182-512-0650, and 182-512-0800 to remove food assistance from the calculation of income when determining a person's eligibility for Washington apple health supplemental security income (SSI)-related medical programs. These amendments are consistent with changes to federal rules regarding the treatment of food assistance within the SSI program, effective September 30, 2024.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Heather Chrzan, P.O. Box 42722, Olympia, WA 98504-2722, 360-725-1513.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules pertain to client program eligibility and do not impose costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

July 22, 2024
Wendy Barcus
Rules Coordinator

OTS-5566.1

AMENDATORY SECTION (Amending WSR 19-11-050, filed 5/10/19, effective 6/10/19)

WAC 182-512-0600 SSI-related medical—Definition of income. (1)

Income is anything a client receives in cash or in-kind that can be used to meet ((his/her)) the client's needs for ((~~food or~~)) shelter. Income can be earned or unearned.

(2) Some receipts are not income because they do not meet the definition of income above. Some types of receipts that are not income are:

- (a) Cash or in-kind assistance from federal, state, or local government programs whose purpose is to provide medical care or services;
 - (b) Some in-kind payments that are not ((~~food or~~)) shelter coming from nongovernmental programs whose purposes are to provide medical care or medical services;
 - (c) Payments for repair or replacement of an exempt resource;
 - (d) Refunds or rebates for money already paid;
 - (e) Receipts from sale of a resource;
 - (f) Replacement of income already received (see 20 C.F.R. 416.1103 for a more complete list of receipts that are not income);
- and

(g) Receipts from extraction of exempt resources for a member of a federally recognized tribe.

(3) Earned income includes the following types of payments:

- (a) Gross wages and salaries, including garnished amounts;
 - (b) Commissions and bonuses;
 - (c) Severance pay;
 - (d) Other special payments received because of employment;
 - (e) Net earnings from self-employment (WAC 182-512-0840 describes earnings exclusions);
 - (f) Self-employment income of tribal members unless the income is specifically exempted by treaty;
 - (g) Payments for services performed in a sheltered workshop or work activities center;
 - (h) Royalties earned by a client in connection with any publication of their work and any honoraria received for services rendered;
- and
- (i) In-kind payments made in lieu of cash wages, including the value of ((~~food or~~)) shelter.

(4) Unearned income is all income that is not earned income. Some types of unearned income are:

- (a) Annuities, pensions, and other periodic payments;
- (b) Alimony and support payments;
- (c) Voluntary or court-ordered child support payments, including arrears, received from a noncustodial parent for the benefit of a child are the income of the child;

- (d) Dividends and interest;
 - (e) Royalties (except for royalties earned by a client in connection with any publication of their work and any honoraria received for services rendered which would be earned income);
 - (f) Capital gains;
 - (g) Rents;
 - (h) Benefits received as the result of another's death to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the recipient;
 - (i) Gifts;
 - (j) Inheritances;
 - (k) Prizes and awards; and
 - (l) Amounts received by tribal members from gaming revenues with the exceptions cited in WAC 182-512-0770(3).
- (5) Some items which may be withheld from income, but which the agency considers as received income are:
- (a) Federal, state, or local income taxes;
 - (b) Health or life insurance premiums;
 - (c) SMI premiums;
 - (d) Union dues;
 - (e) Penalty deductions for failure to report changes;
 - (f) Loan payments;
 - (g) Garnishments;
 - (h) Child support payments, court ordered or voluntary (WAC 182-512-0900 has an exception for deemons);
 - (i) Service fees charged on interest-bearing checking accounts;
 - (j) Inheritance taxes; and
 - (k) Guardianship fees if presence of a guardian is not a requirement for receiving the income.
- (6) Countable income, for the purposes of this chapter, means all income that is available to the client:
- (a) If it cannot be excluded; and
 - (b) After deducting all allowable disregards and deductions.

AMENDATORY SECTION (Amending WSR 14-07-059, filed 3/14/14, effective 4/14/14)

WAC 182-512-0650 SSI-related medical—Available income. (1) Income is considered available to a person at the earliest of when it is:

- (a) Received; or
 - (b) Credited to a person's account; or
 - (c) Set aside for ~~((his or her))~~ the person's use; or
 - (d) Used or can be used to meet the person's needs for ~~((food or))~~ shelter.
- (2) Anticipated nonrecurring lump sum payments are treated as income in the month received, with the exception of those listed in WAC 182-512-0700(5), and any remainder is considered a resource in the following month.
- (3) Reoccurring income is considered available in the month of normal receipt, even if the financial institution posts it before or after the month of normal receipt.

(4) In-kind income received from anyone other than a legally responsible relative is considered available income only if it is earned income.

AMENDATORY SECTION (Amending WSR 21-08-085, filed 4/7/21, effective 5/8/21)

WAC 182-512-0800 SSI-related medical—General income exclusions.

The agency excludes, or does not consider, the following when determining a person's eligibility for Washington apple health SSI-related medical programs:

- (1) The first (~~(twenty dollars)~~) \$20 per month of unearned income. If there is less than (~~(twenty dollars)~~) \$20 of unearned income in a month, the remainder is excluded from earned income in that month.
 - (a) The (~~(twenty dollar)~~) \$20 limit is the same, whether applying it for a couple or for a single person.
 - (b) The disregard does not apply to income paid totally or partially by the federal government or a nongovernmental agency on the basis of an eligible person's needs.
 - (c) The (~~(twenty dollars)~~) \$20 disregard is applied after all exclusions have been taken from income.
- (2) Income that is not reasonably anticipated or is received infrequently or irregularly, whether for a single person or each person in a couple when it is:
 - (a) Earned and does not exceed a total of (~~(thirty dollars)~~) \$30 per calendar quarter; or
 - (b) Unearned and does not exceed a total of (~~(sixty dollars)~~) \$60 per calendar quarter;
 - (c) An increase in a person's burial funds that were established on or after November 1, 1982, if the increase is the result of:
 - (i) Interest earned on excluded burial funds; or
 - (ii) Appreciation in the value of an excluded burial arrangement that was left to accumulate and become part of separately identified burial funds.
- (3) Essential expenses necessary for a person to receive compensation (e.g., necessary legal fees in order to get a settlement).
- (4) Receipts, which are not considered income, when they are for:
 - (a) Replacement or repair of an exempt resource;
 - (b) Prepayment or repayment of medical care paid by a health insurance policy or medical service program; or
 - (c) Payments made under a credit life or credit disability policy.
- (5) The fee a guardian or representative payee charges as reimbursement for providing services, when such services are a requirement for the person to receive payment of the income.
- (6) Funds representing shared household costs.
- (7) Crime victim's compensation.
- (8) The value of a common transportation ticket, given as a gift, that is used for transportation and not converted to cash.
- (9) Gifts that are not for (~~(food,~~) clothing or shelter (~~(, and gifts of home produce used for personal consumption)~~).
- (10) In-kind payments. The agency does not consider in-kind income received from someone other than a person legally responsible for

the person unless it is earned. Therefore, the following in-kind payments are not counted when determining eligibility for apple health SSI-related medical programs:

(a) In-kind payments for services paid by a person's employer if:

- (i) The service is not provided in the course of an employer's trade or business; or
- (ii) The service is in the form of food that is on the employer's business premises and for the employer's convenience; or
- (iii) The service is in the form of shelter that is on the employer's business premises, for the employer's convenience, and required to be accepted by the employee as a condition of employment.

(b) In-kind payments made to people in the following categories:

- (i) Agricultural employees;
- (ii) Domestic employees;
- (iii) Members of the uniformed services; and
- (iv) Persons who work from home to produce specific products for the employer from materials supplied by the employer.

(11) Unearned income withheld, before receipt by the person, for mandatory income tax purposes.