

WSR 23-01-087

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed December 16, 2022, 9:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-09-067.

Title of Rule and Other Identifying Information: WAC 182-513-1110 Presumptive eligibility (PE)—Long-term services and supports (LTSS) in a home setting or in an alternate living facility (ALF) authorized by home and community services (HCS).

Hearing Location(s): On January 24, 2023, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the health care authority (HCA) continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington state. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_7KY0Ob3iRSGgvduJReSdYw. 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 January 25, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by January 24, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.Larson@hca.wa.gov, by January 13, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is creating a new section in chapter 182-513 WAC to create presumptive eligibility for long-term services and supports authorized by HCS in homes and alternate living facilities. Proposed WAC 182-513-1110(10) refers to WAC 388-106-1810 and 388-106-1820. These are new rules under development by the department of social and health services under a preproposal statement of inquiry filed as WSR 21-09-071. The agencies will coordinate the adoption of these rules.

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: Health care authority, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Paige Lewis, P.O. Box 45534, Olympia, WA 98504-5534, 360-725-0757.

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.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how

costs were calculated. The proposed rule pertains to client program eligibility and does not impose any costs on businesses.

December 16, 2022
Wendy Barcus
Rules Coordinator

OTS-4252.1

NEW SECTION

WAC 182-513-1110 Presumptive eligibility (PE)—Long-term services and supports (LTSS) in a home setting or in an alternate living facility (ALF) authorized by home and community services (HCS). (1) A person may be determined presumptively eligible for long-term services and supports (LTSS) in their own home, as defined in WAC 388-106-0010, or in an alternate living facility, as defined in WAC 182-513-1100:

- (a) Upon completion of a screening interview; and
- (b) When authorized by home and community services (HCS).

(2) The screening interview described in subsection (3) of this section may be conducted by either:

- (a) A HCS case manager or social worker;
- (b) An area agency on aging (AAA) or their subcontractor; or
- (c) A state designated tribal entity.

(3) To be presumptively eligible (PE), the person must:

(a) Be determined to meet nursing facility level of care under WAC 388-106-0355 during the screening interview; and

(b) Attest to information that meets the:
(i) Income limits at or below the average monthly state nursing facility rate;

(ii) Resource limits defined under WAC 182-513-1350;

(iii) Social security requirement under WAC 182-503-0515;

(iv) Residency requirement under WAC 182-503-0520; and

(v) Aged, blind, or disabled requirement under WAC 182-512-0050.

(4) The agency or the agency's designee determines how much client responsibility must be paid to the provider for PE home and community-based services authorized by HCS when living at home or in an alternate living facility as outlined in WAC 182-513-1215, 182-515-1507, and 182-515-1509.

(5) The client or the client's representative must submit an on-line application through Washington connection or an HCA 18-005 application for aged, blind, disabled/long-term care coverage to HCS within 10 calendar days of PE determination.

(6) The PE period begins on the date the screening interview is completed and:

(a) Ends on the last day of the month following the month of the PE determination if an LTSS application is not completed and submitted within 10 calendar days of PE determination; or

(b) Ends the last day of the month that the final eligibility determination is made if a LTSS application is submitted under subsection (5) of this section within 10 calendar days of PE determination.

(7) For application processing times, refer to WAC 182-503-0060.

(8) If the applicant is determined not financially eligible for LTSS under WAC 182-513-1315, there is no overpayment for services received during the PE period; however, client responsibility applies as described in WAC 182-513-1215, 182-515-1507, and 182-515-1509.

(9) People who qualify for PE under this section receive categorically needy (CN) medical coverage under WAC 182-501-0060 through the PE period. CN medical coverage begins as described in WAC 182-503-0070(1).

(10) When PE services described in WAC 388-106-1810 and 388-106-1820 are approved or denied, the agency or the agency's designee sends written notice as described in WAC 182-518-0010.

(11) A person may receive services under a PE period only once within a consecutive 24-month period.

(12) The applicant does not have a right to an administrative hearing on PE decisions under chapter 182-526 WAC.

(13) Institutional resource and income standards are found at <https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.

(14) This section does not apply to medical assistance programs described in WAC 182-507-0125 or 182-508-0005.

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