

WSR 23-04-035

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed January 25, 2023, 11:34 a.m., effective February 25, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending the rule to correct the website address at which individuals will learn how to determine the value of a life estate. The correct address is <https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/determining-value-life-estates>.

Citation of Rules Affected by this Order: Amending WAC 182-513-1445.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 22-23-083 on November 14, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 25, 2023.

Wendy Barcus
Rules Coordinator

OTS-4177.1

AMENDATORY SECTION (Amending WSR 17-03-116, filed 1/17/17, effective 2/17/17)

WAC 182-513-1445 Designating a protected asset and required proof. (1) Complete a department of social and health services (DSHS) 10-438 long-term care partnership (LTCP) asset designation form listing assets and the full fair market value that are earmarked as protected at the time of initial application for long-term services and supports under medicaid.

(a) The full fair market value (FMV) of real property or interests in real property will be based on the current assessed value for property tax purposes for real property. A professional appraisal by a licensed appraiser can establish the current value if the assessed value is disputed.

(b) The value of a life estate in real property is determined using the life estate tables found at (~~<http://www.hca.wa.gov/free-or-low-cost-health-care/program-administration/determining-value-life-estates>~~) www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/determining-value-life-estates.

(c) If you own an asset with others, you can designate the value of your pro rata equity share.

(d) If the dollar amount of the benefits paid under a LTC policy is greater than the fair market value of all assets protected at the time of the application for long-term care medicaid, you may designate additional assets for protection under this section. The DSHS LTC asset designation form must be submitted with the updated assets indicated along with proof of the current value of designated assets.

(e) The value of your assets protected for you under your LTC partnership policy do not carry over to your spouse should the spouse need medicaid LTC services during or after your lifetime. If your surviving spouse has an LTC partnership policy the spouse may designate assets based on the dollar amount paid under the spouse's own policy.

(f) Assets designated as protected under this subsection will not be subject to transfer penalties under WAC 182-513-1363.

(2) Proof of the current fair market value of all protected assets is required at the initial application and each annual review.

(3) Submit current verification from the issuer of the LTC policy of the current dollar value paid toward LTC benefits. This verification is required at application and each annual eligibility review.

(4) Any person or the personal representative of the person's estate who asserts that an asset is protected has the initial burden of:

(a) Documenting and proving by convincing evidence that the asset or source of funds for the asset in question was designated as protected;

(b) Demonstrating the value of the asset and the proceeds of the asset beginning from the time period the LTC partnership has paid out benefits to the present; and

(c) Documenting that the asset or proceeds of the asset remained protected at all times.

[Statutory Authority: RCW 41.05.021, 41.05.160, P.L. 111-148, 42 C.F.R. §§ 431, 435, and 457, and 45 C.F.R. § 155. WSR 17-03-116, § 182-513-1445, filed 1/17/17, effective 2/17/17. WSR 13-01-017, recodified as § 182-513-1445, filed 12/7/12, effective 1/1/13. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530, section 6014 of the Deficit Reduction Act of 2005, WAC 284-83-140, 284-83-400, 284-83-405, 284-83-410, 284-83-415, 284-83-420, and chapter 48.83 RCW. WSR 11-23-106, § 388-513-1445, filed 11/18/11, effective 12/19/11.]