

WSR 24-12-011

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed May 23, 2024, 1:59 p.m., effective June 23, 2024]

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

Purpose: The health care authority is amending WAC 182-527-2742 to add a new subsection (1)(e) to except from estate recovery state-only funded guardianship and conservatorship assistance program services.

Citation of Rules Affected by this Order: Amending WAC 182-527-2742.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 24-09-009 on April 4, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: May 23, 2024.

Wendy Barcus
Rules Coordinator

OTS-5272.1

AMENDATORY SECTION (Amending WSR 17-12-019, filed 5/30/17, effective 7/1/17)

WAC 182-527-2742 Estate recovery—Service-related limitations.

For the purposes of this section, the term "agency" includes the agency's designee.

The agency's payment for the following services is subject to recovery:

- (1) State-only funded services, except:
 - (a) Adult protective services;
 - (b) Offender reentry community safety program services;
 - (c) Supplemental security payments (SSP) authorized by the developmental disabilities administration (DDA); ~~((and))~~
 - (d) Volunteer chore services; and
 - (e) Guardianship and conservatorship assistance program services.
- (2) For dates of service on and after January 1, 2014:
 - (a) Basic plus waiver services;
 - (b) Community first choice (CFC) services;
 - (c) Community option program entry system (COPES) services;
 - (d) Community protection waiver services;

- (e) Core waiver services;
 - (f) Hospice services;
 - (g) Intermediate care facility for individuals with intellectual disabilities services provided in either a private community setting or in a rural health clinic;
 - (h) Individual and family services;
 - (i) Medicaid personal care services;
 - (j) New Freedom consumer directed services;
 - (k) Nursing facility services;
 - (l) Personal care services funded under Title XIX or XXI;
 - (m) Private duty nursing administered by the aging and long-term support administration (ALTSA) or the DDA;
 - (n) Residential habilitation center services;
 - (o) Residential support waiver services;
 - (p) Roads to community living demonstration project services;
 - (q) The portion of the managed care premium used to pay for ALTSA-authorized long-term care services under the program of all-inclusive care for the elderly (PACE); and
 - (r) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.
- (3) For dates of service beginning January 1, 2010, through December 31, 2013:
- (a) Medicaid services;
 - (b) Premium payments to managed care organizations (MCOs); and
 - (c) The client's proportional share of the state's monthly contribution to the Centers for Medicare and Medicaid Services to defray the costs for outpatient prescription drug coverage provided to a person who is eligible for medicare Part D and medicaid.
- (4) For dates of service beginning June 1, 2004, through December 31, 2009:
- (a) Medicaid services;
 - (b) Medicare premiums for people also receiving medicaid;
 - (c) Medicare savings programs (MSPs) services for people also receiving medicaid; and
 - (d) Premium payments to MCOs.
- (5) For dates of service beginning July 1, 1995, through May 31, 2004:
- (a) Adult day health services;
 - (b) Home and community-based services;
 - (c) Medicaid personal care services;
 - (d) Nursing facility services;
 - (e) Private duty nursing services; and
 - (f) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.
- (6) For dates of service beginning July 1, 1994, through June 30, 1995:
- (a) Home and community-based services;
 - (b) Nursing facility services; and
 - (c) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.
- (7) For dates of service beginning July 26, 1987, through June 30, 1994: Medicaid services.
- (8) For dates of service through December 31, 2009. If a client was eligible for the MSP, but not otherwise medicaid eligible, the

client's estate is liable only for any sum paid to cover medicare premiums and cost-sharing benefits.

(9) For dates of service beginning January 1, 2010. If a client was eligible for medicaid and the MSP, the client's estate is not liable for any sum paid to cover medical assistance cost-sharing benefits.

(10) For dates of service beginning July 1, 2017, long-term services and supports authorized under the medicaid transformation project are exempt from estate recovery. Exempted services include those provided under:

(a) Medicaid alternative care under WAC 182-513-1600;

(b) Tailored supports for older adults under WAC 182-513-1610;

(c) Supportive housing under WAC 388-106-1700 through 388-106-1765; or

(d) Supported employment under WAC 388-106-1800 through 388-106-1865.