

WSR 21-01-044

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed December 8, 2020, 10:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-013.

Title of Rule and Other Identifying Information: WAC 182-503-0090
Washington apple health—Exceptions to rule.

Hearing Location(s): On January 26, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the agency will not provide a physical location for this hearing. This promotes social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. To attend the virtual public hearing, you must register at the following link: <https://attendee.gotowebinar.com/register/5895859935949871883>. Webinar ID: 563-710-843. After registering, you will receive a confirmation email containing the information about joining the webinar.

Date of Intended Adoption: Not sooner than January 27, 2021.

Submit Written Comments to: The Health Care Authority (HCA), Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by January 26, 2021.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email amber.lougheed@hca.wa.gov, by January 8, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending WAC 182-503-0090 to specify the department of social and health services administrations responsible for processing exceptions to rule related to long-term services and supports programs. The agency is also making nonsubstantive changes for consistency with other agency 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: 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: Mark Westenhaver, P.O. Box 45534, Olympia, WA 98504-5534, 360-725-1324.

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.

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 8, 2020
Wendy Barcus
Rules Coordinator

OTS-2687.2

AMENDATORY SECTION (Amending WSR 13-14-019, filed 6/24/13, effective 7/25/13)

WAC 182-503-0090 Washington apple health—Exceptions to rule.

(1) ~~((An individual))~~ A client or client's representative may request an exception to a Washington apple health financial eligibility rule in Title 182 WAC. ~~((An individual must request an exception to rule (ETR) within ninety calendar days of the agency action with which the individual disagrees. The individual or the individual's representative may))~~ The request for an exception to rule (ETR) may be submitted orally or in writing. The request must:

(a) Be received within ninety calendar days of the agency action with which the client disagrees or wants waived;

(b) Identify the rule for which an exception is being requested;

~~((b))~~ (c) State what the ~~((individual))~~ client is requesting;
and

~~((e))~~ (d) Describe how the request meets subsection (2) of this section.

(2) The agency director or designee has the discretion to grant an ETR if ~~((he or she))~~ they determine~~((s))~~ that the ~~((individual's))~~ client's circumstances satisfy the conditions below:

(a) The exception would not contradict a specific provision of federal or state law; and

(b) The ~~((individual's))~~ client's situation differs from the majority; and

(c) It is in the interest of the overall economy and the ~~((individual's))~~ client's welfare, and:

(i) It increases opportunity for the ~~((individual))~~ client to function effectively; or

(ii) The ~~((individual))~~ client has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment.

(3) ~~((Individuals cannot appeal))~~ A client does not have a right to an administrative hearing on ETR decisions under chapter 182-526 WAC.

(4) ~~((An individual))~~ A client is mailed a decision in writing within ten calendar days when agency staff:

(a) Approve or deny an ETR request; or

(b) Request more information.

(5) If the ETR is approved, the notice includes information on ~~((the approval period))~~ what is approved and for what time frame.

(6) The agency designates staff at the aging and ~~((disability services))~~ long-term support administration ~~((ADSA))~~ (ALISA) and the developmental disabilities administration (DDA) to process all ETRs specifically relating to long-term ~~((care))~~ services and supports programs described in Title 182 WAC.

(7) This section does not apply to requests that the agency pay for noncovered medical or dental services or related equipment. WAC 182-501-0160 applies to such requests.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (Public Law 111-148), 42 C.F.R. §§ 431, 435, and 457, and 45

C.F.R. § 155. WSR 13-14-019, § 182-503-0090, filed 6/24/13, effective 7/25/13.]