

WSR 23-06-052

EXPEDITED RULES

HEALTH CARE AUTHORITY

[Filed February 27, 2023, 9:42 a.m.]

Title of Rule and Other Identifying Information: WAC 182-508-0001 Washington apple health—Coverage options for adults not eligible under MAGI methodologies, 182-509-0001 Countable income for Washington apple health programs, 182-519-0050 Monthly income and countable resource standards for medically needy (MN), and 182-519-0100 Eligibility for the medically needy program.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Correct typographical errors.

Reasons Supporting Proposal: The agency is correcting cross-references to repealed rules that were inadvertently not corrected at the time those rules were repealed. The agency is deleting WAC 182-508-0001 (3)(d) and 182-509-0001 (2)(d) because the income limit to which they refer ceased to exist on January 1, 2020, and WAC 182-511-1060 was repealed under WSR 19-23-063. The agency is replacing references to WAC 182-513-1305 with references to WAC 182-513-1205 because the information that had been in WAC 182-513-1305 was revised and recodified in WAC 182-513-1205, and 182-513-1305 was repealed under WSR 17-03-116. The agency is replacing references to WAC 182-514-0255 with references to WAC 182-514-0263 because WAC 182-514-0255 was repealed under WSR 16-04-087. The agency is deleting WAC 182-519-0100 (1)(c) because the programs to which it refers ended in 2012 and WAC 182-515-1540 and 182-515-1550 were repealed under WSR 17-22-060.

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 42722, Olympia, WA 98504-2722, 360-725-0757.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed rules correct typographical errors and clarify language of a rule without changing its effect.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Health Care Authority, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1306, fax 360-586-9272, email arc@hca.wa.gov, AND RECEIVED BY May 2, 2023.

February 27, 2023
Wendy Barcus
Rules Coordinator

OTS-4386.1

AMENDATORY SECTION (Amending WSR 14-21-040, filed 10/7/14, effective 11/7/14)

WAC 182-508-0001 Washington apple health—Coverage options for adults not eligible under MAGI methodologies. (1) This chapter provides information on eligibility determinations for adults who:

- (a) Need a determination of eligibility on the basis of being aged, blind, or disabled;
- (b) Need a determination of eligibility based on the need for long-term institutional care or home and community-based services;
- (c) Are excluded from coverage under a modified adjusted gross income (MAGI)-based program as referenced in WAC 182-503-0510 on the basis of medicare entitlement;
- (d) Are not eligible for health care coverage under chapter 182-505 WAC due to citizenship or immigration requirements; or
- (e) Are not eligible for health care coverage under chapter 182-505 WAC due to income which exceeds the applicable standard for coverage.

(2) The agency determines eligibility for Washington apple health (WAH) noninstitutional categorically needy (CN) coverage under chapter 182-512 WAC for an adult who is age (~~(sixty-five)~~) 65 or older, or who meets the federal blind or disabled criteria of the federal SSI program, and:

- (a) Meets citizenship/immigration, residency, and Social Security number requirements as described in chapter 182-503 WAC; and
- (b) Has CN countable income and resources that do not exceed the income and resource standards in WAC 182-512-0010.

(3) The agency determines eligibility for WAH health care for workers with disabilities (HWD) CN coverage for adults who meet the requirements described in WAC 182-511-1050, as follows:

- (a) Are age (~~(sixteen)~~) 16 through (~~(sixty-four)~~) 64;
- (b) Meet citizenship/immigration, residency, and Social Security number requirements as described in chapter 182-503 WAC;
- (c) Meet the federal disability requirements described in WAC 182-511-1150; and
- (d) (~~Have net income that does not exceed the income standard described in WAC 182-511-1060; and~~
- (~~e~~)) Are employed full- or part-time (including self-employment) as described in WAC 182-511-1200.

(4) The agency determines eligibility for WAH long-term care CN coverage for adults who meet the institutional status requirements defined in WAC 182-513-1320 under the following rules:

- (a) When the person receives coverage under a MAGI-based program and needs long-term care services in an institution, the agency follows rules described in chapter 182-514 WAC;

(b) When the person meets aged, blind, or disabled criteria as defined in WAC 182-512-0050 and needs long-term care services, the agency follows rules described in:

(i) Chapter 182-513 WAC, for an adult who resides in an institution; and

(ii) Chapter 182-515 WAC, for an adult who is determined eligible for WAH home and community-based waiver services.

(5) The agency determines eligibility for WAH noninstitutional CN or medically needy (MN) health care coverage for an adult who resides in an alternate living facility under rules described in WAC (~~(182-513-1305)~~) 182-513-1205.

(6) The agency determines eligibility for WAH-CN coverage under institutional rules described in chapters 182-513 and 182-515 WAC for an adult who:

(a) Has made a voluntary election of hospice services;

(b) Is not otherwise eligible for noninstitutional CN or MN health care coverage or for whom hospice is not included in the benefit service package available to the person; and

(c) Meets the aged, blind, or disabled criteria described in WAC 182-512-0050.

(7) The agency uses the following rules to determine eligibility for an adult under the WAH-MN program:

(a) Noninstitutional WAH-MN is determined under chapter 182-519 WAC for an adult with countable income that exceeds the applicable CN standard; and

(b) Non-SSI-related institutional WAH-MN long-term care coverage is determined under WAC (~~(182-514-0255 for an adult age nineteen or twenty)~~) 182-514-0263 for pregnant people and people age 20 and younger who:

(i) Meet ~~((s))~~ institutional status requirements described in WAC 182-513-1320;

(ii) ~~((Does))~~ Do not meet blind or disabled criteria described in WAC 182-512-0050; and

(iii) ~~((Has))~~ Have countable income that exceeds the applicable CN standard.

(c) WAH-MN long-term care coverage is determined under WAC 182-513-1395 for an aged, blind, or disabled adult who resides in an institution and has countable income that exceeds the special income level (SIL).

(8) An adult is eligible for WAH-MN coverage when he or she:

(a) Meets citizenship/immigration, residency, and Social Security number requirements as described in WAC 182-503-0505;

(b) Has MN countable income that does not exceed the effective MN income standards in WAC 182-519-0050, or meets the excess income spenddown requirements in WAC 182-519-0110;

(c) Meets the countable resource standards in WAC 182-519-0050; and

(d) Is ~~((sixty-five))~~ 65 years of age or older or meets the blind or disabled criteria of the federal SSI program.

(9) WAH-MN coverage is available for an aged, blind, or disabled ineligible spouse of an SSI recipient. See WAC 182-519-0100 for additional information.

(10) An adult who does not meet citizenship or alien status requirements described in WAC 182-503-0535 may be eligible for the WAH alien emergency medical program as described in WAC 182-507-0110.

(11) An adult is eligible for the state-funded medical care services (MCS) program when he or she meets the requirements under WAC 182-508-0005.

(12) A person who is entitled to medicare is eligible for coverage under a medicare savings program or the state-funded buy-in program when he or she meets the requirements described in chapter 182-517 WAC.

[Statutory Authority: RCW 41.05.021, 41.05.160, P.L. 111-148, 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-21-040, § 182-508-0001, filed 10/7/14, effective 11/7/14. Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-508-0001, filed 9/13/12, effective 10/14/12.]

OTS-4387.1

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

WAC 182-509-0001 Countable income for Washington apple health programs. (1) For purposes of Washington apple health (WAH) program eligibility, a person's countable income is income which remains when:

(a) The income cannot be specifically excluded; and

(b) All appropriate deductions and disregards allowed by a specific program have been applied.

(2) A person's countable income may not exceed the income standard for the specific WAH program, unless the program allows for those limits to be exceeded. Specific program standards are described below:

(a) For modified adjusted gross income (MAGI)-based programs described in WAC 182-503-0510, see WAC 182-505-0100 for the applicable program standard based on a percentage of the federal poverty level (FPL);

(b) For WAH SSI-related CN coverage, see WAC 182-512-0010;

(c) For WAH MN coverage, see WAC 182-519-0050;

(d) ~~((For WAH for workers with disabilities, see WAC 182-511-1060;~~

~~(e-))~~ For WAH medicare savings programs, see WAC 182-517-0100;

~~((f-))~~ (e) For WAH noninstitutional medical in an alternative living facility, see WAC ~~((182-513-1305))~~ 182-513-1205; and

~~((g-))~~ (f) For WAH long-term care programs, see WAC 182-513-1315 and 182-513-1395.

(3) For the MAGI-based programs listed below, the agency or its designee determines eligibility based on the countable MAGI income of the members of the person's medical assistance unit as determined per WAC 182-506-0010:

(a) WAH for parents and caretaker relatives program as described in WAC 182-505-0240;

(b) WAH pregnancy program as described in WAC 182-505-0115;

(c) WAH for kids programs as described in WAC 182-505-0210 with the following exceptions:

(i) Newborn children born to a woman who is eligible for WAH on the date of the newborn's birth, including a retroactive eligibility determination;

(ii) Children who are receiving SSI;

(iii) Children who are in foster care or receiving subsidized adoption services.

(d) WAH MAGI-based adult medical as described in WAC 182-505-0250; and

(e) WAH MAGI-based alien emergency medical as described in WAC 182-507-0110.

(4) For the following SSI-related WAH programs, unless the state has adopted more liberal rules, income rules for the SSI program are used to determine a person's countable income:

(a) WAH noninstitutional SSI-related CN or medically needy (MN) coverage described in chapters 182-511 and 182-512 WAC;

(b) WAH institutional SSI-related CN or MN long-term care or hospice coverage described in chapters 182-513 and 182-515 WAC;

(c) WAH alien emergency medical programs based on age (~~sixty-five~~) 65 or older or disability described in chapter 182-507 WAC; and

(d) WAH medicare savings programs described in chapter 182-517 WAC.

(5) Anticipated nonrecurring lump sum payments received by an applicant or recipient of a WAH SSI-related medical program are counted as income in the month of receipt, subject to reporting requirements, with the exception of retroactive supplemental security income (SSI)/ Social Security disability lump sum payments. See WAC 182-512-0300(4) and 182-512-0700 for more information.

(6) Countable income for the WAH refugee medical (RMA) program and WAH MN program for pregnant women and children is determined as follows:

(a) The agency or its designee allows the following deductions from a person's gross earnings:

(i) Fifty percent of gross earned income;

(ii) Actual work-related child and dependent care expenses, which are the person's responsibility; and

(iii) Court or administratively ordered current or back support paid to meet the needs of legal dependents.

(b) Only income actually contributed to an alien client from the alien's sponsor is countable unless the sponsor signs the affidavit of support I-864 or I-864A.

(c) Nonrecurring lump sum payments are counted as income in the month of receipt and as a resource if the person retains the payment after the month of receipt (resource limits do not apply to MN coverage for pregnant women and children). For RMA, nonrecurring lump sum payments are counted as income if received in the month of application and not considered if received thereafter per WAC 182-507-0130.

(7) Countable income rules for other WAH programs that are not MAGI-based or SSI-related are described in the specific program rules listed in WAC 182-503-0510 (3)(c).

(8) Some WAH programs are not based on a person's or household's countable income but are based on a specific status or entitlement in federal rule. The rules for these deemed eligible WAH programs are described in WAC 182-503-0510(4).

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0001, filed 12/9/13, effective 1/9/14. WSR 11-23-091, recodified as § 182-509-0001, filed 11/17/11, effective 11/21/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, 74.09.700, and 2007 c 5. WSR 08-05-018, § 388-450-0210,

filed 2/12/08, effective 3/14/08. Statutory Authority: RCW 74.08.090, 74.09.530, and 74.09.415. WSR 05-23-013, § 388-450-0210, filed 11/4/05, effective 1/1/06. Statutory Authority: RCW 74.08.090, 74.08A.100, 74.09.080, and 74.09.415. WSR 02-17-030, § 388-450-0210, filed 8/12/02, effective 9/12/02. Statutory Authority: RCW 74.08.090, 74.08A.100, and Title XIX State Plan amendment 00-008. WSR 02-03-009, § 388-450-0210, filed 1/4/02, effective 2/4/02. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0210, filed 7/31/98, effective 9/1/98. Formerly WAC 388-505-0580, 388-505-0590 and 388-519-1910.]

OTS-4390.1

AMENDATORY SECTION (Amending WSR 15-17-012, filed 8/7/15, effective 9/7/15)

WAC 182-519-0050 Monthly income and countable resource standards for medically needy (MN). (1) Changes to the medically needy income level (MNIL) occur on January 1st of each calendar year when the Social Security Administration (SSA) issues a cost-of-living adjustment.

(2) Medically needy (MN) standards for people who meet institutional status requirements are in WAC 182-513-1395. The standard for a client who lives in an alternate living facility is in WAC (~~182-513-1305~~) 182-513-1205.

(3) The resource standards for institutional programs are in WAC 182-513-1350. The institutional standard chart is found at: <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(4) Countable resource standards for the noninstitutional MN program are:

- (a) One person \$2,000
- (b) A legally married couple \$3,000
- (c) For each additional family member add \$50

(5) People who do not meet institutional status requirements use the "effective" MNIL income standard to determine eligibility for the MN program. The "effective" MNIL is the one-person federal benefit rate (FBR) established by SSA each year, or the MNIL listed below, whichever amount is higher. The FBR is the supplemental security income (SSI) payment standard. For example, in 2012, the FBR is (~~six hundred ninety-eight dollars~~) \$698.

1	2	3	4	5	6	7	8	9	10
467	592	667	742	858	975	1125	1242	1358	1483

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-17-012, § 182-519-0050, filed 8/7/15, effective 9/7/15. Statutory Authority: RCW 41.05.021. WSR 12-20-001, § 182-519-0050, filed 9/19/12, effective 10/20/12. WSR 11-23-091, recodified as § 182-519-0050, filed 11/17/11, effective 11/21/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500. WSR 08-11-098, § 388-478-0070, filed 5/20/08, effective 6/20/08. Statutory Authority: RCW 74.04.050,

74.04.057, 74.08.090, 74.09.500, 74.09.530, and Section 1924 of the Social Security Act (42 U.S.C. 1396r-5). WSR 06-06-013, § 388-478-0070, filed 2/17/06, effective 3/20/06. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 42 U.S.C. 9902(2). WSR 05-06-090, § 388-478-0070, filed 3/1/05, effective 4/1/05. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 42 U.S.C. 1396r-5. WSR 02-10-116, § 388-478-0070, filed 4/30/02, effective 5/31/02. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and Section 1924 (42 U.S.C. 1396R-5). WSR 01-12-073, § 388-478-0070, filed 6/4/01, effective 7/5/01. Statutory Authority: RCW 74.08.090, 74.04.050, 74.04.057, and 74.09.575. WSR 00-10-095, § 388-478-0070, filed 5/2/00, effective 5/2/00; WSR 99-11-054, § 388-478-0070, filed 5/17/99, effective 6/17/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-478-0070, filed 7/31/98, effective 9/1/98. Formerly WAC 388-507-0710, 388-507-0720, 388-511-1115, 388-518-1820, 388-518-1830, 388-518-1840 and 388-518-1850.]

AMENDATORY SECTION (Amending WSR 19-02-046, filed 12/27/18, effective 1/27/19)

WAC 182-519-0100 Eligibility for the medically needy program.

(1) A person who meets the following conditions may be eligible for medically needy (MN) coverage under the special rules in chapters 182-513 and 182-515 WAC:

(a) Meets the institutional status requirements of WAC 182-513-1320; or

(b) Resides in a medical institution as described in WAC 182-513-1395 (~~or~~

~~(c) Receives waiver services under a medically needy in-home waiver (MNIW) under WAC 182-515-1550 or a medically needy residential waiver (MNRW) under WAC 182-515-1540).~~

(2) A supplemental security income (SSI)-related person who lives in a medicaid agency-contracted alternate living facility may be eligible for MN coverage under WAC (~~182-513-1305~~) 182-513-1205.

(3) A person may be eligible for MN coverage under this chapter when he or she is:

(a) Not covered under subsection (1) and (2) of this section; and

(b) Eligible for categorically needy (CN) medical coverage in all other respects, except that his or her CN countable income is above the CN income standard.

(4) MN coverage may be available if the person is:

(a) A child;

(b) A pregnant woman;

(c) A refugee;

(d) An SSI-related person, including an aged, blind, or disabled person, with countable income under the CN income standard, who is an ineligible spouse of an SSI recipient; or

(e) A hospice client with countable income above the special income level (SIL).

(5) A person who is not eligible for CN medical who applies for MN coverage has the right to income deductions in addition to, or instead of, those used to calculate CN countable income. These deductions to income are applied to each month of the base period to calculate MN countable income:

(a) The agency disregards the difference between the medically needy income level (MNIL) described in WAC 182-519-0050 and the federal benefit rate (FBR) established by the Social Security Administration each year. The FBR is the one-person SSI payment standard;

(b) All health insurance premiums, except for medicare Part A through Part D premiums, expected to be paid by the person or family member during the base period or periods;

(c) Any allocations to a spouse or to dependents for an SSI-related person who is married or who has dependent children. Rules for allocating income are described in WAC 182-512-0900 through 182-512-0960;

(d) For an SSI-related person who is married and lives in the same home as his or her spouse who receives home and community-based waiver services under chapter 182-515 WAC, an income deduction equal to the MNIL, minus the nonapplying spouse's income; and

(e) A child or pregnant woman applying for MN coverage is eligible for income deductions allowed under temporary assistance for needy families (TANF) and state family assistance (SFA) rules and not under the rules for CN programs based on the federal poverty level. See WAC 182-509-0001(4) for exceptions to the TANF and SFA rules that apply to medical programs and not to the cash assistance program.

(6) The MNIL for a person who qualifies for MN coverage under subsection (1) of this section is based on rules in chapters 182-513 and 182-515 WAC.

(7) The MNIL for all other people is described in WAC 182-519-0050. If a person has countable income at or below the MNIL, the person is certified as eligible for up to (~~twelve~~) 12 months of MN medical coverage.

(8) If a person has countable income over the MNIL, the countable income that exceeds the agency's MNIL standards is called "excess income."

(9) A person with "excess income" is not eligible for MN coverage until the person gives the agency or its designee evidence of medical expenses incurred by that person, their spouse, or family members living in the home for whom they are financially responsible. See WAC 182-519-0110(8). An expense is incurred when:

(a) The person receives medical treatment or medical supplies, is financially liable for the medical expense, and has not paid the bill; or

(b) The person pays for the expense within the current or retroactive base period under WAC 182-519-0110.

(10) Incurred medical expenses or obligations may be used to offset any portion of countable income that is over the MNIL. This is the process of meeting "spenddown."

(11) The agency or its designee calculates the amount of a person's spenddown by multiplying the monthly excess income amount by the number of months in the certification period under WAC 182-519-0110. The qualifying medical expenses must be greater than or equal to the total calculated spenddown amount.

(12) A person who is considered for MN coverage under this chapter may not spenddown excess resources to become eligible for the MN program. Under this chapter, a person is ineligible for MN coverage if the person's resources exceed the program standard in WAC 182-519-0050. A person who is considered for MN coverage under WAC 182-513-1395, 182-514-0250 or (~~182-514-0255~~) 182-514-0263 is allowed to spenddown excess resources.

(13) There is no automatic redetermination process for MN coverage. A person must apply for each eligibility period under the MN program.

(14) A person who requests a timely administrative hearing under WAC 182-518-0025(5) is not eligible for continued benefits beyond the end of the original certification date under the MN program.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 19-02-046, § 182-519-0100, filed 12/27/18, effective 1/27/19; WSR 15-17-012, § 182-519-0100, filed 8/7/15, effective 9/7/15. Statutory Authority: RCW 41.05.021. WSR 12-20-001, amended and recodified as § 182-519-0100, filed 9/19/12, effective 10/20/12. Statutory Authority: RCW 74.04.055, 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 42 C.F.R. 435.831 (3)(e) and (f). WSR 09-08-003, § 388-519-0100, filed 3/19/09, effective 4/19/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-519-0100, filed 7/31/98, effective 9/1/98. Formerly WAC 388-503-0320, 388-518-1840, 388-519-1930 and 388-522-2230.]