

WSR 23-08-046

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed March 30, 2023, 12:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-05-060.

Title of Rule and Other Identifying Information: WAC 182-512-0500 SSI-related medical—Burial funds, contracts and spaces excluded as resources.

Hearing Location(s): On May 9, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_hBvwLAWGQNaCbfhRKR7ciw. 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 May 10, 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 May 9, 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 April 28, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending WAC 182-512-0500 to exclude fully and partially paid burial space purchase agreements from the calculation of available resources. The agency is making additional, nonsubstantive changes so that the rule is easier to understand and apply.

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.

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

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: Paige Lewis, P.O. Box 42722, Olympia, WA 98504-2722, 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.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule pertains to client program eligibility and does not impose costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

March 30, 2023

Wendy Barcus

OTS-4060.5

AMENDATORY SECTION (Amending WSR 14-07-059, filed 3/14/14, effective 4/14/14)

WAC 182-512-0500 SSI-related medical—Burial funds, contracts and spaces excluded as resources. (1) For the purposes of this section, burial funds are funds set aside and clearly designated solely for burial and related expenses, and kept separate from all other resources not intended for burial. These include:

- (a) Revocable burial contracts;
- (b) Revocable burial trusts; or
- (c) ~~((Installment contracts for purchase of a burial space on which payments are still owing;~~
- ~~(d))~~ Other revocable burial arrangements. The designation is effective the first day of the month in which the person intended the funds to be set aside for burial.

(2) ~~((The following))~~ Burial funds in a revocable burial contract, burial trust, cash accounts, or other financial instruments with a definite cash value are excluded as resources for the person and ((his or her)) their spouse, up to ((fifteen hundred dollars)) \$1,500 each, when set aside solely for ((the expenses of)) burial or cremation and ((expenses)) related ((to the burial or cremation, and the funds are either:

- ~~(a) An installment contract for purchase of a burial space that is not yet paid in full; or~~
- ~~(b) In a revocable burial contract, burial trust, cash accounts, or other financial instrument with a definite cash value)) expenses.~~

(3) Interest earned in burial funds and appreciation in the value of excluded burial arrangements in subsection (2) ~~((a) and (b))~~ of this section are excluded from resources and are not counted as income if left to accumulate and become part of the separate burial fund.

(4) An irrevocable burial account, burial trust, or other irrevocable burial arrangement, set aside solely for burial and related expenses, is not considered a resource. To be excluded, the amount set aside must be reasonably related to the anticipated death-related expenses.

(5) The ~~((fifteen hundred dollar))~~ \$1,500 exclusion for burial funds described in subsection (2) of this section is reduced by:

- (a) The face value of life insurance with CSV excluded in WAC 182-512-0450; and
- (b) Amounts ~~((in an irrevocable burial trust, or other irrevocable arrangement available to meet burial expenses, or burial space purchase agreement installment contracts on which money is still owing. If these reductions bring the balance of the available exclusion to zero, no additional funds can be excluded as burial funds.~~

~~(5) An irrevocable burial account, burial trust, or other irrevocable burial arrangement, set aside solely for burial and related expenses is not considered a resource. The amount set aside must be reasonably related to the anticipated death-related expenses in order to~~

~~be excluded~~) that meet the requirements of subsection (4) of this section.

(6) A person's burial funds are no longer excluded when they are mixed with other resources that are not related to burial.

(7) When excluded burial funds are spent for other purposes, the spent amount is added to other countable resources and any amount exceeding the resource limit is considered available income on the first of the month it is used. The amount remaining in the burial fund remains excluded.

(8) Burial space and accessories for the person and any member of the person's immediate family described in subsection (9) of this section are excluded. Burial space and accessories include:

(a) Conventional gravesites;

(b) Crypts, niches, and mausoleums;

(c) Urns, caskets and other repositories customarily used for the remains of deceased persons;

(d) Necessary and reasonable improvements to the burial space including, but not limited to:

(i) Vaults and burial containers;

(ii) Headstones, markers and plaques;

(iii) Arrangements for the opening and closing of the gravesite;

and

(iv) Contracts for care and maintenance of the gravesite.

(e) A burial space purchase agreement that is ~~((currently paid for and owned by the person is also defined as a burial space. The entire value of the purchase agreement is excluded; as well as any interest accrued, which is left to accumulate as part of the value of the agreement. The value of this agreement does not reduce the amount of burial fund exclusion available to the person))~~ fully or partially paid, and any accrued interest.

(9) Immediate family, for the purposes of subsection (8) of this section includes the person's:

(a) Spouse;

(b) Parents and adoptive parents;

(c) Minor and adult children, including adoptive and stepchildren;

(d) Siblings (brothers and sisters), including adoptive and step-siblings;

(e) Spouses of any of the above.

None of the family members listed above, need to be dependent on or living with the person, to be considered immediate family members.

[Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (Public Law 111-148), 42 C.F.R. §§ 431, 435, 457 and 45 C.F.R. § 155. WSR 14-07-059, § 182-512-0500, filed 3/14/14, effective 4/14/14. WSR 11-24-018, recodified as § 182-512-0500, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.08.090. WSR 04-09-003, § 388-475-0500, filed 4/7/04, effective 6/1/04.]