

WSR 23-13-005

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed June 8, 2023, 8:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-08-071.

Title of Rule and Other Identifying Information: WAC 182-521-0200 Coverage after the public health emergency ends.

Hearing Location(s): On July 25, 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_QiArFJaqrVcJ_rekiEBqoA. 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 July 26, 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 July 25, 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 July 14, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Federal Consolidated Appropriations Act of 2023 amended section 6008 of the Families First Coronavirus Response Act to change the end date of medicaid continuous coverage from the end date of the public health emergency to March 31, 2023. The agency filed an emergency rule (WSR 23-08-051), effective April 1, 2023, so that WAC 182-521-0200 conforms to federal law. This proposed rule will make those changes permanent. The proposed rule also includes express language regarding permanent resource exclusion for pandemic-related disaster assistance.

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; 42 U.S.C. § 1396d note.

Rule is necessary because of a federal law, 42 U.S.C. § 1396d note (Section 5131 of the Consolidated Appropriations Act, 2023 (P.L. 117-328), amending Section 6008 of the Families First Coronavirus Response Act).

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 42722, Olympia, WA 98504-2722, 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.

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 any costs on businesses.

Scope of exemption for rule proposal:
Is fully exempt.

June 8, 2023
Wendy Barcus
Rules Coordinator

OTS-4474.3

AMENDATORY SECTION (Amending WSR 22-12-004, filed 5/19/22, effective 7/1/22)

WAC 182-521-0200 Coverage after the public health emergency

(PHE) ends. (1) In response to the coronavirus (COVID-19) public health emergency (PHE) declared by the Secretary of the U.S. Department of Health and Human Services (HHS) and in response to Section 6008 of the Families First Coronavirus Response Act (Public Law 116-127), the medicaid agency:

(a) Continues your Washington apple health coverage (~~until the end of the PHE~~) unless your eligibility determination was made incorrectly, or you:

(i) Are deceased;

(ii) Move out-of-state;

(iii) Request termination of your coverage; or

(iv) No longer meet citizenship or immigration requirements as described in WAC 182-503-0535.

(b) Waives and suspends the collection of premiums through the last day of the calendar quarter in which the PHE ends for:

(i) Apple health for kids with premiums (CHIP), as described in WAC 182-505-0215; and

(ii) Health care for workers with disabilities (HWD) program, as described in WAC 182-511-1250.

(c) As required by Social Security Administration guidance, excludes permanently from resources federal, state, and local pandemic-related disaster assistance that has been retained.

(d) Excludes, for the duration of the PHE and a period of 12 months after the PHE ends, any resources not permanently excluded under (c) of this subsection and which accumulated from participation that did not increase in response to Section 6008(b) of the Families First Coronavirus Response Act (FFCRA), as described in WAC 182-512-0550(24).

(2) Based on Section 5131 of the Consolidated Appropriations Act, 2023 (Public Law 117-328), effective April 1, 2023, if you receive continued apple health due to the suspension of certain eligibility rules during the PHE, the agency will, after (~~the PHE ends~~) April 1, 2023:

(a) Redetermine(~~s~~) your eligibility for ongoing coverage using the process and timelines described in WAC 182-504-0035 and (~~notifies~~) notify you as required under chapter 182-518 WAC. You may update any information needed to complete a redetermination of eligibility, as described in WAC 182-504-0035.

(i) If you are no longer eligible for apple health, or you do not respond to our renewal request notice, you will receive at least 10

calendar days' advance notice before your coverage is terminated, as described in WAC 182-518-0025.

(ii) If your modified adjusted gross income (MAGI)-based coverage ends because you did not renew it, you have 90 calendar days from the termination date to complete your renewal. If you are still eligible for apple health, your benefits will be restored without a gap in coverage.

(iii) If your coverage is terminated, you have a right to an administrative hearing, as described in chapter 182-526 WAC.

(b) Begin((s)) collecting premiums for CHIP and HWD clients prospectively, beginning with the month following the quarter in which the PHE ends, based upon reported circumstances, and without collecting arrears.

(c) Resume((s)) eligibility verification based on the factors described in WAC 182-503-0050.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-12-004, § 182-521-0200, filed 5/19/22, effective 7/1/22.]