

WSR 23-16-105

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed July 31, 2023, 3:21 p.m., effective August 31, 2023]

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

Purpose: 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 rule makes those changes permanent. The rule also includes express language regarding permanent resource exclusion for pandemic-related disaster assistance.

Citation of Rules Affected by this Order: Amending WAC 182-521-0200.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, Other Authority: 42 U.S.C. § 1396d note.

Adopted under notice filed as WSR 23-13-005 on June 8, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: July 31, 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.]