

WSR 23-19-050

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed September 14, 2023, 2:26 p.m., effective September 14, 2023, 2:26 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (agency) is amending WAC 182-513-1110 on an emergency basis to remove presumptive eligibility for long-term services and supports in an alternate living facility.

Citation of Rules Affected by this Order: Amending WAC 182-513-1110.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The agency adopted WAC 182-513-1110 anticipating federal government approval from the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). Currently, CMS has approved presumptive eligibility for long-term services and supports (LTSS) in the person's home, but not in an alternate living facility. Because federal funding is not yet available, the agency is amending the rule to remove language related to LTSS in an alternate living facility and intends to restore that language through future rule making upon CMS approval.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: September 14, 2023.

Wendy Barcus
Rules Coordinator

OTS-4950.1

AMENDATORY SECTION (Amending WSR 23-14-101, filed 6/30/23, effective 9/1/23)

WAC 182-513-1110 Presumptive eligibility (PE)—Long-term services and supports (LTSS) in a home setting ((~~or in an alternate living facility (ALF)~~)) authorized by home and community services (HCS). (1) A person may be determined presumptively eligible for long-term services and supports (LTSS) in their own home, as defined in WAC 388-106-0010 (~~(, or in an alternate living facility, as defined in WAC 182-513-1100)~~):

- (a) Upon completion of a screening interview; and
- (b) When authorized by home and community services (HCS).
- (2) The screening interview described in subsection (3) of this section may be conducted by either:
 - (a) A HCS case manager or social worker;
 - (b) An area agency on aging (AAA) or their subcontractor; or
 - (c) A state designated tribal entity.
- (3) To be presumptively eligible (PE), the person must:
 - (a) Be determined to meet nursing facility level of care under WAC 388-106-0355 during the screening interview; and
 - (b) Attest to information that meets the:
 - (i) Income limits at or below the average monthly state nursing facility rate;
 - (ii) Resource limits defined under WAC 182-513-1350;
 - (iii) Social security requirement under WAC 182-503-0515;
 - (iv) Residency requirement under WAC 182-503-0520; and
 - (v) Aged, blind, or disabled requirement under WAC 182-512-0050.
- (4) The agency or the agency's designee determines how much client responsibility must be paid to the provider for PE home and community-based services authorized by HCS when living at home (~~or in an alternate living facility~~) as outlined in WAC 182-513-1215, 182-515-1507, and 182-515-1509.
- (5) The client or the client's representative must submit an on-line application through Washington connection or an HCA 18-005 application for aged, blind, disabled/long-term care coverage to HCS within 10 calendar days of PE determination.
- (6) The PE period begins on the date the screening interview is completed and:
 - (a) Ends on the last day of the month following the month of the PE determination if an LTSS application is not completed and submitted within 10 calendar days of PE determination; or
 - (b) Ends the last day of the month that the final eligibility determination is made if a LTSS application is submitted under subsection (5) of this section within 10 calendar days of PE determination.
- (7) For application processing times, refer to WAC 182-503-0060.
- (8) If the applicant is determined not financially eligible for LTSS under WAC 182-513-1315, there is no overpayment for services received during the PE period; however, client responsibility applies as described in WAC 182-513-1215, 182-515-1507, and 182-515-1509.
- (9) People who qualify for PE under this section receive categorically needy (CN) medical coverage under WAC 182-501-0060 through the PE period. CN medical coverage begins as described in WAC 182-503-0070(1).
- (10) When PE services described in WAC 388-106-1810 and 388-106-1820 are approved or denied, the agency or the agency's designee sends written notice as described in WAC 182-518-0010.
- (11) A person may receive services under a PE period only once within a consecutive 24-month period.
- (12) The applicant does not have a right to an administrative hearing on PE decisions under chapter 182-526 WAC.
- (13) Institutional resource and income standards are found at <https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.
- (14) This section does not apply to medical assistance programs described in WAC 182-507-0125 or 182-508-0005.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 23-14-101, § 182-513-1110, filed 6/30/23, effective 9/1/23.]