

WSR 23-19-052

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed September 14, 2023, 6:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-16-016.

Title of Rule and Other Identifying Information: WAC 182-500-0010 Medical assistance definitions—A, 182-500-0095 Medical assistance definitions—R, and 182-500-0100 Medical assistance definitions—S.

Hearing Location(s): On October 24, 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_FvUlfbhASZWrHPKvhuxmvA. 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 October 25, 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 October 24, 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 October 13, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending medical assistance definitions to add a person's resources to the reasonable compatibility processes for eligibility renewals.

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.

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 rules pertain to client program eligibility and do not impose costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

September 14, 2023

Wendy Barcus

Rules Coordinator

OTS-4895.1

AMENDATORY SECTION (Amending WSR 22-21-086, filed 10/14/22, effective 11/14/22)

WAC 182-500-0010 Medical assistance definitions—A. "Administrative renewal" means the agency uses electronically available income and resources data sources to verify and recertify a person's Washington apple health benefits for a subsequent certification period. A case is administratively renewed when the person's self-attested income (~~is~~) and resources are reasonably compatible (as defined in WAC 182-500-0095) with the information available to the agency from the electronic data sources and the person meets citizenship, immigration, Social Security number, and age requirements.

"After-pregnancy coverage (APC)" means full-scope Washington apple health (medicaid) health care coverage for people up to 12 months after the month their pregnancy ends under WAC 182-505-0115.

"Agency" or "medicaid agency" means the Washington state health care authority (HCA).

"Agency's designee" means any entity expressly designated by the agency to act on its behalf.

"Allowable costs" are the documented costs as reported after any cost adjustment, cost disallowances, reclassifications, or reclassifications to nonallowable costs which are necessary, ordinary and related to the outpatient care of medical care clients or not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay.

"Alternative benefits plan" means the range of health care services included within the scope of service categories described in WAC 182-501-0060 available to persons eligible to receive health care coverage under the Washington apple health modified adjusted gross income (MAGI)-based adult coverage described in WAC 182-505-0250.

"Ancillary services" means additional services ordered by the provider to support the core treatment provided to the patient. These services may include, but are not limited to, laboratory services, radiology services, drugs, physical therapy, occupational therapy, and speech therapy.

"Apple health for kids" is the umbrella term for health care coverage for certain groups of children that is funded by the state and federal governments under Title XIX medicaid programs, Title XXI Children's Health Insurance Program, or solely through state funds (including the program formerly known as the children's health program). Funding for any given child depends on the program for which the child is determined to be eligible. Apple health for kids programs are included in the array of health care programs available through Washington apple health (WAH).

"Attested income" or "attested resources" means a self-declared statement of a person's income or resources made under penalty of perjury to be true. (See also "~~(self-attested income)~~ self-attestation."

"Authorization" means the agency's or the agency's designee's determination that criteria are met, as one of the preconditions to the agency's or the agency's designee's decision to provide payment for a

specific service or device. (See also "expedited prior authorization" and "prior authorization.")

"Authorized representative" is defined under WAC 182-503-0130.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 74.09.830. WSR 22-21-086, § 182-500-0010, filed 10/14/22, effective 11/14/22. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-02-122, § 182-500-0010, filed 1/6/16, effective 2/6/16; WSR 15-15-143, § 182-500-0010, filed 7/17/15, effective 8/17/15. 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, § 182-500-0010, filed 12/9/13, effective 1/9/14. WSR 11-14-075, recodified as § 182-500-0010, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 2011 1st sp.s. c 15. WSR 11-14-053, § 388-500-0010, filed 6/29/11, effective 7/30/11.]

AMENDATORY SECTION (Amending WSR 16-06-053, filed 2/24/16, effective 4/1/16)

WAC 182-500-0095 Medical assistance definitions—R. "Reasonably compatible" means the amount of a person's self-attested income or resources (as defined in WAC 182-500-0100) and the amount of a person's income or resources verified via electronic data sources are either both above or both below the applicable income or resources standard for Washington apple health (WAH). When self-attested income or resources is less than the standard for WAH, but income or resources from available data sources is more than the WAH standard, or when the self-attested income or resources cannot be verified via electronic data sources, the self-attested income (~~is~~) or resources are considered not reasonably compatible.

"Retroactive period" means approval of medical coverage for any or all of the retroactive period. A client may be eligible only in the retroactive period or may have both current eligibility and a separate retroactive period of eligibility approved.

[Statutory Authority: RCW 41.05.021, 41.05.160, 2014 c 225. WSR 16-06-053, § 182-500-0095, filed 2/24/16, effective 4/1/16. 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, § 182-500-0095, filed 12/9/13, effective 1/9/14. WSR 11-14-075, recodified as § 182-500-0095, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 2011 1st sp.s. c 15. WSR 11-14-053, § 388-500-0095, filed 6/29/11, effective 7/30/11.]

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

WAC 182-500-0100 Medical assistance definitions—S. "Self-attestation" means a person's written, verbal, or electronic declaration of (~~his or her~~) the person's income (~~and/or~~), resources, or circumstances made under penalty of perjury, confirming a statement to be true. (See also "attested income(~~-~~)" or "attested resources.")

"Spendedown" is a term used in the medically needy (MN) program and means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the agency. See WAC 182-519-0110.

"Spouse" means a person who is legally married to another person. Washington state recognizes other states' determinations of legal and common-law marriages between two persons.

(1) **"Community spouse"** means a person who:

(a) Does not reside in a medical institution; and

(b) Is legally married to a client who resides in a medical institution or receives services from a home and community-based waiver program. A person is considered married if not divorced, even when physically or legally separated from (~~his or her~~) the person's spouse.

(2) **"Eligible spouse"** means an aged, blind or disabled husband or wife of an SSI-eligible person, who lives with the SSI-eligible person, and is also eligible for SSI.

(3) **"Essential spouse"** means a husband or wife whose needs were taken into account in determining old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) for a client in December 1973, who continues to live in the home and remains married to the client.

(4) **"Ineligible spouse"** means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person, and who has not applied or is not eligible to receive SSI.

(5) **"Institutionalized spouse"** means a legally married person who has attained institutional status as described in chapter 182-513 WAC, and receives services in a medical institution or from a home or community-based waiver program described in chapter 182-515 WAC. A person is considered married if not divorced, even when physically or legally separated from (~~his or her~~) the person's spouse.

(6) **"Nonapplying spouse"** means an SSI-related person's husband or wife, who has not applied for medical assistance.

"SSI-related" means an aged, blind or disabled person not receiving an SSI cash grant.

"State supplemental payment (SSP)" is a state-funded cash benefit for certain individuals who are either recipients of the Title XVI supplemental security income (SSI) program or who are clients of the division of developmental disabilities. The SSP allotment for Washington state is a fixed amount of (~~twenty-eight million nine hundred thousand dollars~~) \$28,900,000 and must be shared between all individuals who fall into one of the groups listed below. The amount of the SSP may vary each year depending on the number of individuals who qualify. The following groups are eligible for an SSP:

(1) Mandatory SSP group—SSP made to a mandatory income level client (MIL) who was grandfathered into the SSI program. To be eligible in this group, an individual must have been receiving cash assistance in December 1973 under the department of social and health services former old age assistance program or aid to the blind and disability assistance. Individuals in this group receive an SSP to bring their income to the level they received prior to the implementation of the SSI program in 1973.

(2) Optional SSP group—SSP made to any of the following:

(a) An individual who receives SSI and has an ineligible spouse.

(b) An individual who receives SSI based on meeting the age criteria of (~~sixty-five~~) 65 or older.

(c) An individual who receives SSI based on blindness.

(d) An individual who has been determined eligible for SSP by the division of developmental disabilities.

(e) An individual who is eligible for SSI as a foster child as described in WAC 388-474-0012.

"Supplemental security income (SSI) program (Title XVI)" is the federal grant program for aged, blind, and disabled persons, established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

[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, § 182-500-0100, filed 12/9/13, effective 1/9/14. WSR 11-14-075, recodified as § 182-500-0100, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 2011 1st sp.s. c 15. WSR 11-14-053, § 388-500-0100, filed 6/29/11, effective 7/30/11.]