

WSR 21-02-076

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed January 5, 2021, 4:10 p.m., effective January 5, 2021, 4:10 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is amending WAC 182-505-0215 to expand the children's health insurance program (CHIP) to include coverage for eligible children of public employees.

Citation of Rules Affected by this Order: Amending WAC 182-505-0215.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Affordable Care Act section 10203 (b)(2)(D) permits the agency to expand CHIP to include coverage for eligible children of public employees, specifically, it permits states to extend CHIP coverage to eligible children of public employees when it is demonstrated that the cost of employer-based coverage would exceed five percent of the family's income.

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 Washington state legislature passed section 211(66), chapter 357, Laws of 2020, which directs the agency to implement a CHIP state plan amendment in calendar year 2020, once approved by the federal Centers for Medicare and Medicaid Services (CMS). The state plan amendment maintains CHIP coverage as secondary payer for eligible child dependents of employees eligible for school employee or public employee benefit coverage. CMS approved the state plan amendment August 28, 2020, with a retroactive effective date of January 1, 2020. Since the previous emergency rule making filed under WSR 20-19-106, which is set to expire January 16, 2021, the agency completed permanent rule making and filed a CR-103P Rule-making order December 23, 2020 (WSR 21-01-027 [21-01-207]). The permanent rule is effective January 23, 2021. This emergency rule will cover the gap between the expiration of the emergency rule and the effective date of the permanent rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.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 0, 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: January 5, 2021.

Wendy Barcus
Rules Coordinator

OTS-2648.1

AMENDATORY SECTION (Amending WSR 19-21-103, filed 10/16/19, effective 1/1/20)

- WAC 182-505-0215 Children's Washington apple health with premiums.** (1) A child is eligible for Washington apple health with premiums if the child:
- (a) Meets the requirements in WAC 182-505-0210(1);
 - (b) Has countable income below the standard in WAC 182-505-0100 (6) (b); and
 - (c) Pays the required premium under WAC 182-505-0225, unless the child is exempt under WAC 182-505-0225 (2) (c).
- (2) A child is not eligible for Washington apple health with premiums if the child:
- (a) Is eligible for no-cost Washington apple health;
 - (b) Has creditable health insurance coverage as defined in WAC 182-500-0020 (~~(c)~~); A child with creditable health insurance coverage may be eligible for Washington apple health with premiums if the child:
 - (i) Is eligible for public employees benefits board (PEBB) health insurance coverage based on a family member's employment with a Washington state agency, or a Washington state university, community college, or technical college; or
 - (~~(d)~~) (ii) Is eligible for school employees benefits board (SEBB) health insurance coverage based on a family member's employment with a Washington school district, charter school, or educational service district; and
 - (iii) Meets the requirements in WAC 182-505-0210(1).

[Statutory Authority: RCW 41.05.021, 41.05.160, 41.05.050, 41.05.065, 34.05.010, 74.09.500 and 42 C.F.R. 457.310. WSR 19-21-103, § 182-505-0215, filed 10/16/19, effective 1/1/20. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-12-018, § 182-505-0215, filed 5/30/17, effective 6/30/17. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-505-0215, filed 7/29/14, effective 8/29/14. WSR 12-13-056, recodified as § 182-505-0215, filed 6/15/12, effective 7/1/12. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.402, 74.09.470, and 2008 session law. WSR 09-07-086, § 388-542-0010, filed 3/17/09, effective 4/17/09. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, 74.09.700, and 2007 c 5. WSR 08-05-018, § 388-542-0010, filed 2/12/08, effective 3/14/08. Statutory Authority: RCW 74.08.090, 74.09.050, and Title XXI of the Social Security Act. WSR 06-15-134, § 388-542-0010, filed 7/19/06, effective 8/19/06. Statutory Authority: RCW 74.08.090, 74.09.510, 74.09.522, 74.09.450, and 2004 c 276. WSR 04-16-064, § 388-542-0010, filed 7/30/04, effective 8/30/04.]