

WSR 25-05-063

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed February 14, 2025, 8:30 a.m., effective February 14, 2025, 8:30 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (agency) is providing continuous eligibility for children ages zero to six covered through the apple health children's health insurance program.

Citation of Rules Affected by this Order: Amending WAC 182-504-0015, 182-504-0035, and 182-505-0210.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Other Authority: Section 211(87), chapter 376, Laws of 2024.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The legislature directed the agency to pursue a 1115 medicaid waiver to provide continuous eligibility for children ages zero to six covered through the Washington apple health children's health insurance program (section 211(87), chapter 376, Laws of 2024 (ESSB 5950)). The agency received federal government waiver approval, effective January 8, 2025, to provide continuous eligibility. This emergency filing is necessary to ensure eligible children ages zero to six do not lose their coverage. The agency began the permanent rule-making process by filing WSR 25-05-048 on February 13, 2025.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: February 14, 2025.

Wendy Barcus
Rules Coordinator

RDS-6180.1

AMENDATORY SECTION (Amending WSR 24-20-052, filed 9/25/24, effective 10/26/24)

WAC 182-504-0015 Washington apple health—Certification periods for categorically needy programs. (1) A certification period is the

period of time we determine that you are eligible for a categorically needy (CN) Washington apple health program. Unless otherwise stated in this section, the certification period begins on the first day of the month of application and continues through the end of the last month of the certification period.

(2) Newborn coverage begins on the child's date of birth and continues through the end of the month of the child's first birthday.

(3) If you are eligible for apple health based on pregnancy, the certification period continues through the last day of the month the pregnancy ends. After-pregnancy coverage begins the first day of the month, following the end of the pregnancy, and ends the last day of the 12th month from the time after-pregnancy coverage began.

(4) If you are newly eligible for apple health coverage and had a pregnancy end within the last 12 months, your certification period for after-pregnancy coverage:

(a) Begins the first day of the month you are eligible; and

(b) Ends the last day of the 12th month following the end of your pregnancy.

(5) If you are eligible for the refugee program, the certification period ends at the end of the 12th month following your date of entry to the United States.

(6) If you are a child under age six receiving apple health for kids without a premium or apple health for kids with premiums, your certification period ends the last day of the month of your sixth birthday.

(7) If you are eligible for newborn coverage, your coverage continues through the last day of the month of your first birthday. Apple health for kids coverage begins automatically on the first day of the month after your newborn coverage ends and the certification period ends the last day of the month of your sixth birthday.

(8) For all other CN coverage, the certification period is 12 months.

(9) If you are a child, eligibility is continuous throughout the certification period regardless of a change in circumstances, unless you:

(a) Turn age 19;

(b) Move out-of-state; or

(c) Die.

(10) When you turn 19, the certification period ends after the redetermination process described in WAC 182-504-0125 is completed, even if the 12-month period is not over, unless:

(a) You are receiving inpatient services (described in WAC 182-514-0230) on the last day of the month you turn 19;

(b) The inpatient stay continues into the following month or months; and

(c) You remain eligible except for turning age 19.

(11) A retroactive certification period is described in WAC 182-504-0005.

(12) Coverage under premium-based programs included in apple health for kids as described in chapter 182-505 WAC begins no sooner than the month after creditable coverage ends.

AMENDATORY SECTION (Amending WSR 23-23-057, filed 11/8/23, effective 12/9/23)

WAC 182-504-0035 Washington apple health—Renewals. (1) For all Washington apple health (~~((WAH))~~) programs, the following applies:

(a) You are required to complete a renewal of eligibility at least every 12 months with the following exceptions:

(i) If you are eligible for (~~((WAH))~~) apple health medically needy with spenddown, then you must complete a new application at the end of each three- or six-month base period;

(ii) If you are eligible for (~~((WAH))~~) apple health alien emergency medical, then you are certified for a specific period of time to cover emergency inpatient hospitalization costs only (see WAC 182-507-0115(8));

(iii) If you are eligible for (~~((WAH))~~) apple health refugee coverage, you must complete a renewal of eligibility after 12 months; or

(iv) If you are a child on apple health for kids without premiums or apple health for kids with premiums, your first renewal is due the month of your sixth birthday.

(b) You may complete renewals online, by phone, or by paper application that you mail or fax to us (the agency or its designee).

(c) If your (~~((WAH))~~) apple health is renewed, we decide the certification period according to WAC 182-504-0015.

(d) We review all eligibility factors subject to change during the renewal process.

(e) We redetermine eligibility as described in WAC 182-504-0125 and send you written notice as described in WAC 182-518-0005 before (~~((WAH))~~) apple health is terminated.

(f) If you need help meeting the requirements of this section, we provide equal access services as described in WAC 182-503-0120.

(2) For programs based on modified adjusted gross income (MAGI) as described in WAC 182-503-0510:

(a) Sixty days prior to the end of the certification period:

(i) When information from electronic sources shows income is reasonably compatible (as defined in WAC 182-500-0095), we administratively renew your coverage (as defined in WAC 182-500-0010) for a new certification period and send you a notice of renewal with the information used. You are required to inform us if any of the information we used is wrong.

(ii) If we are unable to complete an administrative renewal (as defined in WAC 182-500-0010), you must give us a signed renewal in order for us to decide if you will continue to get (~~((WAH))~~) apple health coverage beyond the current certification period.

(iii) We follow the requirements described in WAC 182-518-0015 to request any additional information needed to complete the renewal process or to terminate coverage for failure to renew.

(b) If your (~~((WAH))~~) apple health coverage is terminated because you did not renew, you have 90 days from the termination date to give us a completed renewal. If we decide you are still eligible to get (~~((WAH))~~) apple health coverage, we will restore your (~~((WAH))~~) apple health without a gap in coverage.

(3) For non-MAGI based programs (as described in WAC 182-503-0510):

(a) Forty-five days prior to the end of the certification period, we send notice with a renewal form. You must renew before the end of the certification period by either calling the department of social

and health services at the number listed on the form to renew by telephone, renew online at www.washingtonconnection.org, or mailing or delivering to the department of social and health services a signed renewal form with the information required by WAC 182-503-0005.

(b) We follow the requirements in WAC 182-518-0015 to request any additional information needed to complete the renewal process or to terminate coverage for failure to renew.

(c) To complete your renewal, you must give us all the other information requested on the application that is needed to determine your eligibility.

(d) If you are terminated for failure to renew, you have 30 days from the termination date to submit a completed renewal. If still eligible, we will restore your ((WAH)) apple health without a gap in coverage.

(4) If we determine that you are not eligible for renewal of your ((WAH)) apple health coverage, we:

(a) Consider your eligibility for all other ((WAH)) apple health programs before ending your ((WAH)) apple health coverage; and

(b) Coordinate with the health benefit exchange any request for information that is necessary to determine your eligibility for:

(i) Other ((WAH)) apple health programs; and

(ii) With respect to qualified health plans, health insurance premium tax credits (as defined in WAC 182-500-0045) and cost-sharing reductions (as defined in WAC 182-500-0020).

(5) We reconsider our decision that you are not eligible for ((WAH)) apple health coverage without a new application from you when:

(a) We receive the information that we need to decide if you are eligible within 30 days of the date on the termination notice; or

(b) You request a hearing within 90 days of the date on the renewal denial letter and an administrative law judge (ALJ) or HCA review judge decides our decision was wrong (per chapter 182-526 WAC).

(6) If you disagree with our decision, you can ask for a hearing. If we decided that you are not eligible for renewal because we do not have enough information, the ALJ will consider the information we already have and anymore information you give us. The ALJ does not consider the previous absence of information or failure to respond in determining if you are eligible.

RDS-6181.2

AMENDATORY SECTION (Amending WSR 23-23-057, filed 11/8/23, effective 12/9/23)

WAC 182-505-0210 Eligibility for children. (1) **General eligibility.** For purposes of this section, a child must:

(a) Be a Washington state resident under WAC 182-503-0520 and 182-503-0525;

(b) Provide a Social Security number under WAC 182-503-0515, unless exempt; and

(c) Meet program-specific requirements.

(2) **Deemed eligibility groups.** A child is automatically eligible for coverage without an application if the child meets the program-specific requirements in (a) through (c) of this subsection.

(a) **Newborn coverage.** A child (~~(under)~~) younger than age one is eligible for categorically needy (CN) coverage if the birth parent was eligible for Washington apple health on the date of delivery:

- (i) Including a retroactive eligibility determination; or
- (ii) By meeting a medically needy (MN) spenddown liability with expenses incurred by the date of the newborn's birth:

(b) **Washington apple health for supplemental security income (SSI) recipients.** A child who is eligible for SSI is automatically eligible for CN coverage under WAC 182-510-0001.

(c) **Foster care coverage.** A child age 20 (~~(and)~~) or younger is eligible for CN coverage under WAC 182-505-0211 when the child is in foster care or receives subsidized adoption services. For children who age out of the foster care program, see WAC 182-505-0211(3).

(3) **Continuous eligibility for children under age six.** (~~(Children are)~~) A child is eligible for Washington apple health continuous eligibility for children under age six when they:

(a) Have household income at or below (~~(215)~~) 210 percent of the federal poverty level at the time of application; or

(b) On or after January 8, 2025, have household income greater than 210 percent but equal to or less than 312 percent of the federal poverty level at the time of application; or

(c) Received coverage under subsection (5) of this section and are no longer eligible for deemed coverage under subsection (5)(b) or (c) of this section.

(4) **MAGI-based eligibility groups.** A child age 18 (~~(and)~~) or younger is eligible for CN coverage based on modified adjusted gross income (MAGI):

(a) At no cost when the child's countable income does not exceed the standard in WAC 182-505-0100 (6)(a);

(b) With payment of a premium when the child's countable income does not exceed the standard in WAC 182-505-0100 (6)(b), and the child meets additional eligibility criteria in WAC 182-505-0215;

(c) Under chapter 182-514 WAC, if the child needs long-term care services because the child resides or is expected to reside in an institution, as defined in WAC 182-500-0050, for 30 days or longer. An institutionalized child is eligible for coverage under the medically needy (MN) program if income exceeds the CN income standard for a person in an institution (special income level);

(d) Under WAC 182-505-0117, if a child is pregnant.

(5) **Non-MAGI-based children's programs.** The agency determines eligibility for the:

(a) (~~(Medically needy (MN))~~) MN program according to WAC (~~(182-510-0001(6) and)~~) 182-519-0100. A child age 18 (~~(and)~~) or younger is eligible if the child:

(i) Is not eligible for MAGI-based coverage under subsection (4) of this section;

(ii) Meets citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and

(iii) Meets any spenddown liability required under WAC 182-519-0110.

(b) **SSI-related program.** A child age 18 (~~(and)~~) or younger is eligible for CN or MN SSI-related coverage if the child meets:

(i) SSI-related eligibility under chapter 182-512 WAC;

(ii) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and

(iii) Any MN spenddown liability under WAC 182-519-0110.

(c) **SSI-related long-term care program.**

(i) A child age 18 (~~and~~) or younger is eligible for home and community based (HCB) waiver programs under chapter 182-515 WAC if the child meets:

(A) SSI-related eligibility under chapter 182-512 WAC;

(B) Citizenship or immigration requirements under WAC 182-503-0535 (2) (a), (b), (c), or (d); and

(C) Program-specific age and functional requirements under chapters 388-106 and 388-845 WAC.

(ii) A child age 18 (~~and~~) or younger who resides or is expected to reside in a medical institution as defined in WAC 182-500-0050 is eligible for institutional medical under chapter 182-513 WAC if the child meets:

(A) Citizenship or immigration requirements under WAC 182-503-0535 (2) (a), (b), (c), or (d);

(B) Blindness or disability criteria under WAC 182-512-0050; and

(C) Nursing facility level of care under chapter 388-106 WAC.

(6) **Alien emergency medical program.** A child age 20 (~~and~~) or younger who does not meet the eligibility requirements for a program described under subsections (2) through (5) of this section is eligible for the alien emergency medical (AEM) program if the child meets:

(a) The eligibility requirements of WAC 182-507-0110; and

(b) MN spenddown liability, if any, under WAC 182-519-0110.

(7) **Other provisions.**

(a) A child residing in an institution for mental disease (IMD) as defined in WAC 182-500-0050(~~(4)~~) is not eligible for inpatient hospital services, unless the child is unconditionally discharged from the IMD before receiving the services.

(b) A child incarcerated in a public institution as defined in WAC 182-500-0050(~~(4)~~) is only eligible for inpatient hospital services.