



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Health Care Authority, Washington Apple Health

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose:

The agency amended these rules to clarify when continued coverage ends, and to clarify that the agency reinstates coverage if it does not meet the advance notice requirements in WAC 182-518-0025.

Citation of existing rules affected by this order:

Repealed: 182-504-0135
 Amended: 182-518-0025, 182-504-0130
 Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 16-17-084 on August 17, 2016.
Describe any changes other than editing from proposed to adopted version: See attachment.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted: October 31, 2016

NAME (TYPE OR PRINT)
Wendy Barcus

SIGNATURE

TITLE
HCA Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: October 31, 2016
TIME: 3:10 PM

WSR 16-22-060

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>2</u>	Repealed	<u>1</u>
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>2</u>	Repealed	<u>1</u>

ATTACHMENT

- The agency revised WACs 182-518-0025 and 182-504-0130 in the “we/you” (second person) format.
- WAC 182-518-0025 (2): **Exceptions to ten-day notice period.** We may send a notice fewer than ten days before the date of the action in the following circumstances.
- WAC 182-518-0025 (3)(c) and (d): (c) The facts and reason(s) for the action; (d) The specific regulation on which the action is based
- WAC 182-518-0025 (3) (g): Information found in WAC 182-518-0005(4).
- WAC 182-518-0025 (4): (b) If you are receiving medically needy coverage, you cannot receive reinstated coverage past the end of the certification period described in WAC 182-504-0020.
- WAC 182-518-0025 (4): (c) We may end your coverage if a notice we mailed to you is returned with no forwarding address. We reinstate your coverage if we learn your new address and you meet eligibility requirements.
- WAC 182-504-0130 (3): If your last day to request a hearing and still qualify for continued coverage falls on a Saturday, Sunday, or a designated holiday under WAC 357-31-005, you have until 5:00 pm on the end of the next business day to request the hearing.
- WAC 182-504-0130 (5): You cannot receive continued coverage if the ~~agency's~~ adverse action was due solely to a change in statute, federal regulation, or administrative rule, unless there is a question about whether you are in the class of people affected by the change.

WAC 182-504-0130 Washington apple health—Continued coverage pending an appeal. (~~((1) If you disagree with a Washington apple health (WAH) decision that we (the agency or its designee) made, you have the right to appeal under RCW 74.09.741. The appeal rules are found in chapter 182-526 WAC.~~

~~(2) If you appeal a WAH decision on or before the tenth day after the date the person receives the written notice of the WAH decision or before the effective date of the WAH decision, your WAH coverage will continue until the appeals process ends, unless otherwise specified in this section. This is called continued coverage.~~

~~(3) We will treat the fifth day after the date on the notice as the date you received the notice; however, if you show that you received the notice more than five days after the date on the notice, we will use the actual date you received the notice for counting the ten-day appeal period for the purpose of providing continued coverage. If the tenth day falls on a weekend or holiday, you have until the next business day to appeal and still be able to receive continued coverage.~~

~~(4) You receive continued coverage through the end of the month an administrative hearing decision is sent to you unless:~~

~~(a) An administrative law judge or our presiding officer serves an order ending continued coverage; or~~

~~(b) You:~~

~~(i) Tell us in writing that you do not want continued coverage; or~~

~~(ii) Withdraw your appeal in writing or at an administrative proceeding.~~

~~(5) You cannot get continued coverage when a change in your WAH coverage is the result of a mass change. A mass change is when rules change that impact coverage for a class of applicants and recipients or due to a legislative or statutory change. You may get continued coverage while appealing a change in your WAH coverage that is a result of a mass change if:~~

~~(a) There is a question about whether you are in the class of applicants or recipients being affected by the mass change; or~~

~~(b) The mass change is not the only reason for the change in your WAH coverage.~~

~~(6) If you are getting WAH medically needy coverage, then you are not eligible for continued coverage beyond the end of the original certification period described in WAC 182-504-0020.)) (1) Continued coverage is when you continue to receive Washington apple health benefits while appealing a medicaid agency adverse action to terminate, suspend, or reduce your:~~

~~(a) Medicaid eligibility; or~~

~~(b) Authorization for a covered service.~~

~~(2) To qualify for continued coverage, you must request a hearing on the adverse action no later than:~~

~~(a) The tenth day after we (the medicaid agency or its designee) sent a notice of the action to you; or~~

~~(b) The last day of the month before the action takes effect.~~

~~(3) If your last day to request a hearing and still qualify for continued coverage falls on a Saturday, Sunday, or a designated holi-~~

day under WAC 357-31-005, you have until 5:00 p.m. on the next business day to request the hearing.

(4) Continued coverage ends when:

(a) You state in writing you no longer wish to receive continued coverage;

(b) You withdraw the appeal;

(c) You default and an order of dismissal is entered;

(d) An administrative law judge or a review judge issues an adverse ruling or written decision:

(i) Terminating your continued coverage; or

(ii) Ruling you do not qualify for benefits.

(5) You cannot receive continued coverage if the adverse action was due solely to a change in statute, federal regulation, or administrative rule, unless there is a question about whether you are in the class of people affected by the change.

(6) If you are receiving medically needy coverage, you cannot receive continued coverage past the end of the certification period described in WAC 182-504-0020.

(7) If you are receiving coverage under an alien medical program, you cannot receive continued coverage past the end of the certification period described in chapter 182-507 WAC.

WAC 182-518-0025 Washington apple health—Notice requirements—
((Changes in and terminations of coverage)) Actions to terminate, sus-
pend, or reduce eligibility or authorization for a covered service.

~~((1) We send you written notice before your Washington apple health (WAH) coverage changes or ends. The notice includes:~~

- ~~(a) The change in coverage;~~
- ~~(b) The date your coverage will change or end;~~
- ~~(c) Specific facts and reason(s) for the decision;~~
- ~~(d) Specific rules the decision is based on; and~~
- ~~(e) Information found in WAC 182-518-0005(4).~~

~~(2) Before we send any notices to end your WAH coverage because your income is more than the modified adjusted gross income (MAGI) standard, we determine if you are eligible for other health care coverage (including non-MAGI-based coverage) based on information you have provided, as described in WAC 182-504-0125.~~

~~(3) We notify you at least ten days before we change or end your health care coverage. The ten days start on the day we send you the notice and end on the tenth day. We are not required to give ten days' notice if:~~

- ~~(a) You asked us to change or end your coverage;~~
- ~~(b) We are changing or ending your coverage due to a change in law;~~
- ~~(c) We are ending your coverage because everyone in your household either died or has been accepted to receive medicaid coverage somewhere else (another local jurisdiction, state, territory, or commonwealth);~~

~~(d) We are ending your coverage because mail we sent you was returned to us with no forwarding address and we do not have a more current address for you;~~

~~(e) You are incarcerated and it is expected to last more than thirty days; or~~

~~(f) We have facts indicating probable fraud by you, in which case we may notify you five days before we change or end your coverage.~~

~~(4) If we do not have to give ten days' advance notice, we send the notice right away after getting the information that caused the change, but no later than the date we took the action described in the notice.~~

~~(5) You may request an appeal if you disagree with our decision to change or end your health care coverage and get continued coverage as described in WAC 182-504-0130.)~~ **(1) General rule.**

(a) We send written notice to you at least ten days before taking adverse action to terminate, suspend, or reduce your:

- (i) Medicaid eligibility; or**
- (ii) Authorization for a covered service.**

(b) The ten-day notice period starts on the day we sent the notice.

(2) Exceptions to ten-day notice period. We may send a notice fewer than ten days before the date of the action in the following circumstances.

(a) We send written notice to you at least five days before taking action to terminate, suspend, or reduce your medicaid eligibility or authorization for a covered service if:

(i) We have facts indicating fraud by you or on your behalf; and
(ii) We have verified the facts, if possible, through secondary sources.

(b) We send written notice to you no later than the date we took action to terminate, suspend, or reduce your medicaid eligibility or authorization for a covered service if:

(i) You requested the action;
(ii) A change in statute, federal regulation or administrative rule is the sole cause of the action;

(iii) You are incarcerated and expected to remain incarcerated at least thirty days;

(iv) Mail sent to you has been returned without a forwarding address, and we do not have a more current address for you; or

(v) We are terminating your eligibility because you:

(A) Died; or

(B) Began receiving medicaid from a jurisdiction other than Washington state.

(3) **Notice contents.** Written notice under this section states:

(a) The nature of the action;

(b) The effective date of the action;

(c) The facts and reason(s) for the action;

(d) The specific regulation on which the action is based;

(e) Your appeal rights, if any;

(f) Your right to continued coverage, if any; and

(g) Information found in WAC 182-518-0005(4).

(4) **Reinstated coverage.**

(a) If we do not meet the advance notice requirements under this section, we reinstate your coverage back to the date of the action. We may still take action once we meet notice requirements under this section.

(b) If you are receiving medically needy coverage, you cannot receive reinstated coverage past the end of the certification period described in WAC 182-504-0020.

(c) We may end your coverage if a notice we mailed to you is returned with no forwarding address. We reinstate your coverage if we learn your new address and you meet eligibility requirements.

(5) **Hearing rights.** If you do not agree with agency action under this section, you may request an administrative hearing under chapter 182-526 WAC, and you may be entitled to continued coverage under WAC 182-504-0130.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-504-0135 Washington apple health—Reinstated
coverage pending an appeal.