



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: July 22, 2024

TIME: 7:55 AM

WSR 24-15-098

Agency: Health Care Authority

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 24-12-052 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or
- Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) 182-512-0600, SSI-related medical – Definition of income; 182-512-0650, SSI-related medical – Available income; 182-512-0800, SSI-related medical – General income exclusions

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 27, 2024	10:00 AM	The Health Care Authority 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_Jx4tOCLyTByfJf1Pj88Cg 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 August 28, 2024 (Note: This is **NOT** the effective date)

Submit written comments to:

Name HCA Rules Coordinator
Address PO Box 42716, Olympia WA 98504-2716
Email arc@hca.wa.gov
Fax 360-586-9727
Other

Beginning (date and time) July 23, 2024, 8:00 AM
By (date and time) August 27, 2024, by 11:59 PM

Assistance for persons with disabilities:

Contact Johanna Larson
Phone 360-725-1349
Fax 360-586-9727
TTY Telecommunication Relay Service (TRS): 711
Email Johanna.Larson@hca.wa.gov
Other
By (date) August 16, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending WACs 182-512-0600, -0650, and -0800 to remove food assistance from the calculation of income when determining a person's eligibility for Washington Apple Health Supplemental Security Income (SSI)-related medical programs. These amendments are consistent with changes to federal rules regarding the treatment of food assistance within the SSI program, effective September 30, 2024.

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

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Health Care Authority
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Brian Jensen	PO Box 42716, Olympia, WA 98504-2716	360-725-0815
Implementation	Heather Chrzan	PO Box 42722, Olympia, WA 98504-2722	360-725-1513
Enforcement	Heather Chrzan	PO Box 42722, Olympia, WA 98504-2722	360-725-1513

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

No: Please explain: RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: The proposed rules pertain to client program eligibility and do not impose costs on businesses.

(2) Scope of exemptions: *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

Date: July 22, 2024	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

WAC 182-512-0600 SSI-related medical—Definition of income. (1)

Income is anything a client receives in cash or in-kind that can be used to meet ~~((his/her))~~ the client's needs for ~~((food-or))~~ shelter. Income can be earned or unearned.

(2) Some receipts are not income because they do not meet the definition of income above. Some types of receipts that are not income are:

(a) Cash or in-kind assistance from federal, state, or local government programs whose purpose is to provide medical care or services;

(b) Some in-kind payments that are not ~~((food-or))~~ shelter coming from nongovernmental programs whose purposes are to provide medical care or medical services;

(c) Payments for repair or replacement of an exempt resource;

(d) Refunds or rebates for money already paid;

(e) Receipts from sale of a resource;

(f) Replacement of income already received (see 20 C.F.R. 416.1103 for a more complete list of receipts that are not income); and

(g) Receipts from extraction of exempt resources for a member of a federally recognized tribe.

(3) Earned income includes the following types of payments:

(a) Gross wages and salaries, including garnished amounts;

(b) Commissions and bonuses;

(c) Severance pay;

(d) Other special payments received because of employment;

(e) Net earnings from self-employment (WAC 182-512-0840 describes earnings exclusions);

(f) Self-employment income of tribal members unless the income is specifically exempted by treaty;

(g) Payments for services performed in a sheltered workshop or work activities center;

(h) Royalties earned by a client in connection with any publication of their work and any honoraria received for services rendered; and

(i) In-kind payments made in lieu of cash wages, including the value of ~~((food-or))~~ shelter.

(4) Unearned income is all income that is not earned income. Some types of unearned income are:

(a) Annuities, pensions, and other periodic payments;

(b) Alimony and support payments;

(c) Voluntary or court-ordered child support payments, including arrears, received from a noncustodial parent for the benefit of a child are the income of the child;

(d) Dividends and interest;

(e) Royalties (except for royalties earned by a client in connection with any publication of their work and any honoraria received for services rendered which would be earned income);

(f) Capital gains;

(g) Rents;

(h) Benefits received as the result of another's death to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the recipient;

- (i) Gifts;
- (j) Inheritances;
- (k) Prizes and awards; and
- (l) Amounts received by tribal members from gaming revenues with the exceptions cited in WAC 182-512-0770(3).
- (5) Some items which may be withheld from income, but which the agency considers as received income are:
 - (a) Federal, state, or local income taxes;
 - (b) Health or life insurance premiums;
 - (c) SMI premiums;
 - (d) Union dues;
 - (e) Penalty deductions for failure to report changes;
 - (f) Loan payments;
 - (g) Garnishments;
 - (h) Child support payments, court ordered or voluntary (WAC 182-512-0900 has an exception for deemors);
 - (i) Service fees charged on interest-bearing checking accounts;
 - (j) Inheritance taxes; and
 - (k) Guardianship fees if presence of a guardian is not a requirement for receiving the income.
- (6) Countable income, for the purposes of this chapter, means all income that is available to the client:
 - (a) If it cannot be excluded; and
 - (b) After deducting all allowable disregards and deductions.

AMENDATORY SECTION (Amending WSR 14-07-059, filed 3/14/14, effective 4/14/14)

WAC 182-512-0650 SSI-related medical—Available income. (1) Income is considered available to a person at the earliest of when it is:

- (a) Received; or
- (b) Credited to a person's account; or
- (c) Set aside for ((his or her)) the person's use; or
- (d) Used or can be used to meet the person's needs for ((food or)) shelter.

(2) Anticipated nonrecurring lump sum payments are treated as income in the month received, with the exception of those listed in WAC 182-512-0700(5), and any remainder is considered a resource in the following month.

(3) Reoccurring income is considered available in the month of normal receipt, even if the financial institution posts it before or after the month of normal receipt.

(4) In-kind income received from anyone other than a legally responsible relative is considered available income only if it is earned income.

WAC 182-512-0800 SSI-related medical—General income exclusions.

The agency excludes, or does not consider, the following when determining a person's eligibility for Washington apple health SSI-related medical programs:

(1) The first (~~(twenty dollars)~~) \$20 per month of unearned income. If there is less than (~~(twenty dollars)~~) \$20 of unearned income in a month, the remainder is excluded from earned income in that month.

(a) The (~~(twenty dollar)~~) \$20 limit is the same, whether applying it for a couple or for a single person.

(b) The disregard does not apply to income paid totally or partially by the federal government or a nongovernmental agency on the basis of an eligible person's needs.

(c) The (~~(twenty dollars)~~) \$20 disregard is applied after all exclusions have been taken from income.

(2) Income that is not reasonably anticipated or is received infrequently or irregularly, whether for a single person or each person in a couple when it is:

(a) Earned and does not exceed a total of (~~(thirty dollars)~~) \$30 per calendar quarter; or

(b) Unearned and does not exceed a total of (~~(sixty dollars)~~) \$60 per calendar quarter;

(c) An increase in a person's burial funds that were established on or after November 1, 1982, if the increase is the result of:

(i) Interest earned on excluded burial funds; or

(ii) Appreciation in the value of an excluded burial arrangement that was left to accumulate and become part of separately identified burial funds.

(3) Essential expenses necessary for a person to receive compensation (e.g., necessary legal fees in order to get a settlement).

(4) Receipts, which are not considered income, when they are for:

(a) Replacement or repair of an exempt resource;

(b) Prepayment or repayment of medical care paid by a health insurance policy or medical service program; or

(c) Payments made under a credit life or credit disability policy.

(5) The fee a guardian or representative payee charges as reimbursement for providing services, when such services are a requirement for the person to receive payment of the income.

(6) Funds representing shared household costs.

(7) Crime victim's compensation.

(8) The value of a common transportation ticket, given as a gift, that is used for transportation and not converted to cash.

(9) Gifts that are not for (~~(food,)~~) clothing or shelter (~~(, and gifts of home produce used for personal consumption)~~).

(10) In-kind payments. The agency does not consider in-kind income received from someone other than a person legally responsible for the person unless it is earned. Therefore, the following in-kind payments are not counted when determining eligibility for apple health SSI-related medical programs:

(a) In-kind payments for services paid by a person's employer if:

- (i) The service is not provided in the course of an employer's trade or business; or
 - (ii) The service is in the form of food that is on the employer's business premises and for the employer's convenience; or
 - (iii) The service is in the form of shelter that is on the employer's business premises, for the employer's convenience, and required to be accepted by the employee as a condition of employment.
- (b) In-kind payments made to people in the following categories:
- (i) Agricultural employees;
 - (ii) Domestic employees;
 - (iii) Members of the uniformed services; and
 - (iv) Persons who work from home to produce specific products for the employer from materials supplied by the employer.
- (11) Unearned income withheld, before receipt by the person, for mandatory income tax purposes.