

Exception to Rule (ETR): Washington

Apple Health

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Sometimes you can get Apple Health benefits even if you don't meet all financial requirements, or you may get necessary medical/dental services that Medicaid normally doesn't cover. This is called an "exception to a rule" (ETR). You can ask for an ETR from the Health Care Authority or your managed care Medicaid plan.

What is an Exception to Rule?

The Washington state Health Care Authority (HCA) (<https://www.hca.wa.gov/>) may decide to approve Washington Apple Health (Medicaid) benefits (<https://www.hca.wa.gov/about-hca/programs-and-initiatives/apple-health-medicaid>) even if you don't meet all the financial requirements. Or HCA may decide to cover necessary medical and dental services that Medicaid normally doesn't cover. Either type of decision is called an **exception to a rule** or **ETR**.

HCA doesn't grant all ETR requests. If you decide to request an Exception to Rule, you should get started right away. It takes time to get the request ready and get information to support your request.

Is an Exception to Rule right for me?

It depends on your situation.

When deciding on your ETR request about Washington Apple Health **financial eligibility** (<https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>), you must be able to convince HCA that these are true:

- Making an exception to allow you to get Apple Health increases your chances to function effectively, **or** you have an impairment or limitation that makes it very hard to use the normal eligibility or payment process.
- The exception wouldn't go against the law.
- Your situation is different from most others'.
- The exception is in the interest of the overall economy and your welfare.

(**)**If your ETR is asking for coverage of **non-covered medical or dental services** through Washington Apple Health, you must convince HCA that these are true:

- Making an exception to allow coverage of the services you need would not go against the law.
- The item or service you need is part of good medical practice.
- The item or service you need is cost-effective.
- Your condition is so different that no other cheaper Apple Health service or item would meet your needs as well.
- The services HCA would pay for under their rules don't work for you.

(**Example:** Your dentist and doctor recommend a dental procedure to treat large calcium deposits in your mouth. HCA denies you coverage for the procedure.

For most people, these deposits are harmless. In your case, if you don't get the deposits treated, you can't wear your dentures anymore. You must wear your dentures to chew the vegetables and fruit you eat to manage your diabetes.

Should I also ask for a hearing?

If HCA denies or stops your Washington Apple Health benefits or HCA, or your Apple Health Managed Care plan (<https://www.hca.wa.gov/free-or-low-cost-health-care/i-need-medical-dental-or-vision-care/apple-health-managed-care>) denies coverage of medically necessary services, you can ask for both an Exception to Rule **and** an administrative hearing (your managed care plan calls it a **fair hearing**). If you're on a managed care plan, there are also other things you can try to do while pursuing an ETR and a hearing.

HCA and the Office of Administrative Hearings (OAH) must get your hearing request **within 90 days** of the written notice stating HCA denied, reduced, or ended your benefits.

If you're on a managed care plan, such as Amerigroup, Community Health Plan of Washington United Healthcare Community Plan, or Molina Healthcare of Washington Inc., you must use their appeal process first. The denial or termination notice you get should say how to appeal the decision. If not, call the plan's customer service number.

If HCA is ending your benefits, and you want to keep getting the service or benefit until you get a hearing decision, you must ask for an administrative hearing and “continued benefits” **within 10 days of their notice or before the date the service or benefit stops**. But be aware: HCA can ask you to pay back up to 60 days’ worth of benefits if you lose your appeal.

If you miss the deadline, you can still appeal or ask for an ETR. You may need to show you had “good cause” for missing the deadline. **Example:** You missed the deadline because you were in the hospital.

Which decision do I want to get first?

You want to get the decision on your ETR first. If you get your ETR approved, you won’t need to go through with the hearing option.

If the hearing date is before you think you’ll get a decision on the ETR, contact the assigned Administrative Hearing Coordinator and OAH (<https://oah.wa.gov/contact-us/offices>). Ask them to postpone (called **continuing**) your hearing. Explain that you’re waiting for a decision on an ETR request on the same issue. The hearing notice should have the FHC or OAH’s (<https://oah.wa.gov/contact-us/offices>) contact info.

When and how do I request an Exception to Rule?

You must make a written ETR request **within 90 days** of the written notice denying Washington Apple Health benefits or a requested service. How to make your request depends on whether you’re making your request to the Health Care Authority or a managed care plan. Here’s what to do **if you get Apple Health through the HCA**:

- **For denials of Washington Apple Health because HCA decided you're not financially eligible**, mail your ETR request to Health Care Authority PO Box 45531 Olympia, WA 98504.
- **For denials of coverage of non-covered medical or dental services through Washington Apple Health**, have your provider fax your request and supporting paperwork to the Health Care Authority at 1-866-668-1214.

If you have an Apple Health managed care plan, such as Amerigroup, Community Health Plan of Washington United Healthcare Community Plan, or Molina Healthcare of Washington, Inc., you must submit your ETR request to that plan. Generally, your provider can fax or send the ETR request to the same contact info where they send prior authorization requests.

What paperwork should I send?

You should send a letter to HCA or the managed care plan explaining why you need an ETR and how you meet the requirements. In the example above about calcium deposit removal, you would put in your letter the reasons why you need the treatment. You would then apply the rules to your situation by saying these things: That your request doesn't go against the law, that your situation is rare, that removal of the calcium deposits is the only treatment available and is good medical practice, and it will be cheaper in the end because it will prevent further medical problems.

Along with your letter, you should include written evidence supporting your request, for example, a statement or records from your doctor, dentist, care providers, or other medical professionals. In the example above about calcium deposit removal, you would give letters from your doctor and your dentist. Each would explain that calcium deposit is medically necessary for

you, and why your case is different from others who don't need removal of their calcium deposits.

Your letter should also include the number for the rule to which you want an exception (for example: WAC 182-501-0070 (<https://app.leg.wa.gov/WAC/default.aspx?cite=182-501-0070>)).

How long will an Exception to Rule decision take?

HCA or the managed care plan has 15 working days to give its written decision. They may ask for more information.

You must give HCA or your plan any additional information they've asked for **within 30 days** of the request. They will then decide within 5 business days.

Do I get benefits while waiting for a decision?

- If you request only an ETR, not an administrative hearing - **No**.
- If HCA is going to end a benefit and you ask for an administrative hearing within **10 days** of the date on the termination notice - **Yes**, until an Administrative Law Judge (ALJ) decides your case. If the 10th day happens before the end of the month, you have until the end of the month to ask for an administrative hearing and keep getting benefits.

If you lose your administrative hearing, DSHS may ask you to pay back up to **60 days** of assistance.

What if HCA denied my ETR?

In general, you don't get to ask for a hearing over a denial of an ETR. Talk to a lawyer.

WashingtonLawHelp.org gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.