

Exception to Rule (ETR): Washington Apple Health

What is an ETR?

The Health Care Authority (HCA) can approve Washington Apple Health (Medicaid) benefits even if you do not meet all financial requirements. They can also cover necessary medical and dental services that Medicaid normally does not cover. These are each an “exception to a rule” or ETR.

Does HCA grant all ETR requests?

No. It grants only a few.

What is my deadline to ask for an ETR?

You must make an **ETR request for financial eligibility** within 90 days of the written notice denying Washington Apple Health benefits.

You must make an **ETR request regarding non-covered medical or dental services** within 90 days of the notice denying the service.

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- ❖ It takes time to get the request ready and get info to support your request. Act right away.
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Should I also ask for an Administrative Hearing?

Yes. If HCA denies or stops your Washington Apple Health benefits OR HCA or your Apple Health Managed Care plan denies coverage of medically necessary services, you should usually ask for both.

When should I ask for a hearing?

HCA and/or the Office of Administrative Hearings (OAH) must get your **administrative**

hearing request within 90 days of the written notice stating HCA denied, cut, or stopped your benefits.

If you get **Apple Health through 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 should say how to appeal the decision. If not, call the plan’s customer service number.

If **HCA is ending 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 **ten days** of their notice or before the date the service or benefit stops. HCA can ask you to pay back up to 60 days’ worth of benefits if you lose your appeal.

What if I miss the deadline to appeal?

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

Which decision do I want first?

You want the decision on your ETR first. If the administrative hearing date is before you think you will get a decision on the ETR, contact the assigned Administrative Hearing Coordinator and OAH. Ask them to postpone (“continue”) your hearing. Explain that you are waiting for a decision on an ETR request on the same issue. The hearing notice should have the FHC or OAH’s contact info. To contact your local OAH

office, go to

<http://oah.wa.gov/Home/Index/3411>.

Is an ETR right for me?

Washington Apple Health financial eligibility -

When deciding on your ETR request, HCA considers if

- ✓ The exception would not go against the law.
- ✓ Your situation is different from most others’.
- ✓ The exception is in the interest of the overall economy and your welfare.
- ✓ One of these:
 - The ETR increases your chances to function effectively.
 - You have an impairment or limitation making it very hard to use the normal eligibility or payment process.

Coverage of non-covered medical or dental services through Washington Apple Health -

HCA considers if

- ✓ The exception would not go against the law.
- ✓ The requested item or service is “good medical practice.”
- ✓ The requested service is cost-effective.
- ✓ Your condition is so different that no other cheaper Medicaid service or item would meet your needs as well.
- ✓ The services HCA would pay for under their rules do not work for you.

❖ The financial eligibility ETR rule is [WAC 182-503-0090](#).

❖ The non-covered service ETR rule is [WAC 182-501-0160](#).

Example 1: Your dentist recommends a dental procedure to treat a calcium growth inside your mouth. HCA denies coverage. In most people, the growth is harmless. In your case, you cannot have dentures fitted. You ask for an ETR. You show your case is rare, removal is the only treatment available, and it will be cheaper in the end because it will prevent further medical problems.

Example 2: Your doctor recommends Botox injections to treat a rare medical condition affecting the use of your muscles. HCA denies coverage because your condition is rare or the medical treatment is experimental. You may ask for an ETR. You argue that no other, cheaper treatment works as well, and it will result in a lower overall cost of care by letting you live independently without a care provider’s aid.

How do I request an ETR?

Washington Apple Health financial eligibility -

Mail your ETR request to:

Health Care Authority
PO Box 45531
Olympia WA 98504

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.

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- ❖ For more **info**, contact the HCA Medical Assistance Customer Service Center: 1-800-562-3022.
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NOTE: 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?

- ✓ A letter to HCA or the managed care plan explaining why you need an ETR and how you meet the requirements
- ✓ Evidence supporting your request, including a statement or records from your doctor, dentist, care providers, or other medical professionals
- ✓ The number for the rule you want an exception to [**example:** WAC 182-501-0070]

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- ❖ You must submit your written ETR request within 90 days of the date of the written notice denying authorization for the service.
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Do you have sample letters?

Yes. You can change them to meet your needs:

- **Form Letter A** - Requesting an ETR for non-covered services
- **Form Letter B** - Request for a statement and documentation from your doctor or dentist

How long will an ETR decision take?

HCA or the managed care plan has fifteen working days to give its written decision. [WAC 182-501-0160\(5\)](#).

They may ask for more info. You must get them this info within 30 days of the request. They will then decide within five business days.

Do I get benefits while waiting for a decision?

If you request only an ETR, not an administrative hearing - No.

If they are going to end a benefit and you ask for an administrative hearing within ten days of the date on the termination notice - Yes, until an Administrative Law Judge (ALJ) decides your case. If the tenth 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.

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- ❖ If you lose your administrative hearing, DSHS may ask you to pay back up to 60 days of assistance.
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What if they denied my ETR?

In general, there is no hearing for a denial of an ETR. Talk to a lawyer.

What if I need legal help?

- Apply online with [CLEAR*Online](#)
- <https://nwjustice.org/get-legal-help>
or
- Call CLEAR at 1-888-201-1014

CLEAR is Washington’s toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

- Outside King County: Call 1-888-201-1014 weekdays 9:15 a.m. - 12:15 p.m.
- King County: Call 211 for info and referral to an appropriate legal services provider weekdays 8:00 am – 6:00 pm. You may also call (206) 461-3200, or toll-free 1-877-211-WASH (9274). You can also get info on legal service providers in King County at www.resourcehouse.com/win211/.

- Persons 60 and Over: Seniors age 60 or over can call CLEAR*Sr at 1-888-387-7111, regardless of income. Assets limits may apply. Seniors in King County can call 2-1-1.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 (or toll-free 1-877-211-9274) using the relay service of their choice.

CLEAR and 211 will conference in free interpreters when needed.

Free legal education publications, videos and self-help packets covering many legal issues are available at washingtonlawhelp.org.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

This information is current as of October 2018.

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FORM LETTER A

(Name)
(Street Address)
(City, State Zip)

(Date)

(ETR Coordinator)
DSHS
(Street Address)
(City, State Zip)

RE: ETR request for tori (calcium deposit) removal, Client ID # *(XXX)*

Dear *(ETR Coordinator)*,

I am requesting an Exception to Rule (ETR) for the denial of my request for coverage of tori (calcium deposit) removal. The Health and Recovery Services Administration (HRSA) denied my request for this dental procedure because you do not cover it under WAC 388-535-1265(2)(y).

My dentist, Dr. Jane Smith, told me I have large calcium deposits on my lower jaw. If I do not have them removed, I cannot have dentures placed in my mouth. I have diabetes and very specific dietary needs. Without dentures, I would have no teeth. I would be unable to chew fruit and vegetables. I would be unable to manage my diabetes. My health would be at risk.

I meet all the ETR requirements for medical services under WAC 388-501-0160:

1. State law does not exclude Tori removal.
2. Tori removal falls within accepted standards of good medical practice.
3. Tori removal will result in a lower overall cost of care. With dentures, I am less likely to develop jaw disorders requiring further dental treatment. If I can manage my diabetes, I am less likely to need emergency medical care.
4. My clinical condition is different from the majority. Unlike other people, I have multiple medical conditions that could get worse if I do not get coverage for this dental procedure. The dentures would help me from developing painful jaw problems. They would help keep my diabetes under control.
5. No other, cheaper Medicaid service or item would meet my needs as well. Other medical services DSHS would pay for would not work for me. If I do not have the calcium deposits removed, the dentist cannot make denture molds for my mouth. There are no alternative services or procedures.

To support this request, I have included statements and medical records from my dentist and primary care doctor. Thank you for considering my ETR request. I look forward to hearing from you soon.

Sincerely,

(Your name)

FORM LETTER B

(Name)
(Street Address)
(City, State Zip)

(Date)

(Medical Provider)
(Hospital)
(Street Address)
(City, State Zip)

Dear *(Medical Provider)*,

As you know, the Department of Social and Health Services (DSHS) has denied coverage for my request for calcium deposit (tori) removal because they do not cover this dental procedure. I am trying to get the most complete and accurate medical information to show that this dental procedure is “medically necessary” and would qualify under an Exception to Rule (ETR) request.

“Medically necessary” is a service or equipment “...reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction. There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service.”

To qualify for an ETR, I must show the requested service:

- ✓ **Falls within accepted standards of good medical practice.**
- ✓ **Results in a lower overall cost of care.**
- ✓ **My clinical condition is different from the majority and no equally effective, less costly covered service meets my needs.**
- ✓ **Covered medical services indicated for me have been medically ineffective or inappropriate.**

Please let me know if my request for tori removal is consistent with the “medically necessary” definition and the standards for an ETR request. An administrative hearing is approaching soon. I am hoping you can give me a written statement addressing the issues above, and any supporting medical records, as soon as possible.

Sincerely,

(Name)