Washington State Health Care Authority

APPLE HEALTH (MEDICAID) MANUAL REVISION

Revision #	**069**
Chapter / Section	**Long Term Services and Supports – Defining the resource standard and determining resource eligibility for SSI-related long-term care (LTC) services**
Issued Date	**7/9/2022**
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Summary of Revision

Section 6014 of the Deficit Reduction Act (DRA) of 2005 included a provision which is a limitation on the payment of LTC for those services that are based on a nursing facility level of care or ICF-MR level of care and have excess home equity over the standard. Washington implemented the minimum excess equity at the time which is currently $636,000. Excess home equity applies to single applicant and recipients. Those with a community spouse or dependents in the home are exempt from this provision per WAC 182-513-1350.

Seattle University School of Law petitioned HCA on behalf of The Fred T. Korematsu Center for Law and Equality, Northwest Health Law Advocates, Solid Ground, and Washington State Bar Association Elder Law Section, to increase the home equity limit to the federal maximum for homeowners who need HCS and DDA long-term services and supports (LTSS) to live safely and with dignity in their homes, adult family homes, assisted living, and nursing homes. This aligns with the ALTSA Strategic Objective 1.1: Serve individuals in their homes or in community-based settings of their choice.

HCA and HCS agreed to amend WAC 182-513-1350 to increase the excess

home equity provision to the federal maximum allowed which is $955,000. The rule will be final 7/9/2022.

Apple Health (Medicaid) Manual revision via track changes:

This was requested by field staff so they are aware of what has changed in the manual.

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Home Equity Limits: Minimum: 636,000.00 Maximum: 955,000.00
Permanent Adoption (CR103P) - WSR 22-13-058
Effective: 7/9/2022

Excess home equity

Revised Date:
~~October 7, 2019~~ July 7, 2022
Section 6014 of the Deficit Reduction Act (DRA) of 2005 included a new provision which is a limitation on the payment of LTC services (Medicaid services in a medical institution or a Home and Community Based Waiver). The DRA states "this applies to individuals who are determined eligible for Medicaid with respect to nursing facility or other long-term care services." Effective 7/7/2022, Washington changed the rule from the minimum home equity limit to the maximum home equity limit allowed under federal rule.

WAC 182-513-1350 Defining the resource standard and determining resource eligibility for SSI-related long-term care (LTC) services.

Clarifying Information

WAC 182-513-1350 (8) is the rule for excess home equity. The current excess home equity standard is ~~found~~ posted on the Washington Apple Health Income and Resource standards chart located in the Apple Health manual. ~~in the LTC medical standards.~~

Definition of a home:

[Federal SSI related Policy Manual]

WAC 182-512-0350 SSI related medical

The excess home equity is not an eligibility factor for noninstitutional Medicaid. **It is a limitation on payment for long-term services and supports (LTSS).** This includes Community First Choice (CFC), PACE, Home and Community Based ~~HCB~~ Waiver Services (HCBS) and institutional Medicaid. A primary residence would not ~~be counted~~ count as a resource under regular community Medicaid rules.

If there is a legal impediment it would still render the person ineligible for LTSS unless a hardship waiver is approved under WAC 182-513-1367.

Individuals with an equity interest in their home greater than the excess home equity limits are ineligible for nursing facility and other long-term care services (this includes Home and Community based Waivers).

This is a pass/fail provision. If an applicant or recipient has equity interest over the standard in the home, there is no eligibility for long term care services. Putting the home up for sale **does not** allow conditional eligibility when there is excess home equity. Deny an application based on reason code 410 excess home equity. The system will generate information regarding hardship waivers described in WAC 182-513-1367. For recipients, terminate the case following 10 day notice rules. Reason code 410 will generate information regarding excess home equity and hardship waivers.

The ACES system is programmed to do this for ~~all K and~~ L track programs. The denial/termination reason code 410-Excess home equity. Unless the following criteria is met, excess home equity is based on:

- On LTC services prior to 5/1/2006 with no break in service
- A spouse, dependent minor or disabled adult child are living in the home
- The home is essential for self-support
- Hardship Waiver due to application of the rule has been approved

Excess home equity provision is a pass/fail provision

The excess home equity provision applies to the first determination of eligibility as well as at future redeterminations. The home equity provision does not apply to individuals who applied and were determined eligible before May 1, 2006 and have no break in LTC eligibility after May 1, 2006.

The amount of the individual's equity interest in the home should be based solely on the current market value of the home, minus any encumbrances such as mortgages or other loans that are secured by the home. If the overall equity interest in the home is shared by co-owners equity interest is determined according to POMS SI 0110.510. (fractional interest determination).

CMS guidance indicates that an allegation that home equity should not ~~be~~ count~~ed~~ because of a legal impediment to selling or transferring the home **does not prevent a determination of the individual's equity interest.** Such an allegation may be a legitimate reason for the state to consider waiving the application of the excess home equity requirement because of a hardship. (see Hardship Waiver).

The excess home value is not applied to the resource standard. It is a pass/fail provision.

How is reverse mortgage line of credit treated?

The most popular option to reduce equity interest is through a reverse mortgage. The equity value is reduced by deducting the debt from the current market value. The homeowner will have to **receive the money for it to reduce equity.**

Costs relating to obtaining the reverse mortgage can be included to reduce the home equity if the costs are paid out of the loan proceeds. (They become part of the outstanding debt). If the person pays out-of-pocket costs up front, they do not reduce the equity.

Excess home equity and LTC Partnership Rules

The home equity is not protected per se under the LTC Partnership rules. A person can take out a home equity loan converting equity into an otherwise countable resource and then the equity will be treated as any other resource will be treated.

Example #1
Applicant recently entered a nursing home. Equity in the home is $~~625~~990,000. There is no spouse or dependents. Applicant intends to return home.

In this example, the application is denied due to excess home equity provisions.

Example #2

Applicant recently entered a nursing home. Equity in the home is $~~625~~990,000. There is no spouse or dependents. Applicant's representative has put the home up for sale.

In this example, the application is denied due to excess home equity provisions. Putting the home up for sale does not negate this provision as it is a pass/fail test for LTC services. The applicant can look into the possibility of a reverse mortgage.

Example #3
Applicant recently entered a nursing home. Equity in the home is $~~625~~990,000. The community spouse lives in the home.

In this example, the home is excluded. The excess home equity provision does not apply if the spouse (or dependents) are living in the home.

Example #4
Applicant recently entered a nursing home. Equity in the home is $~~552~~800,000. In addition to the home, there is noncontiguous property worth $625,000 that is up for sale. There is no spouse or dependents. The applicant intends to return to the home.

The excess home equity provision only applies to the individual's home. In this example, the home equity value is under the standard. The individual intends to return home, so it is excluded from eligibility.

The 2nd piece of property is over the excess home provision, however was not the individual's primary home. The excess home provision does not apply to this 2nd piece of property. The property is listed for FMV, therefore we can look at conditional eligibility as the house is listed for sale.

Example #5
Applicant recently entered a nursing home. Equity in the home is $100.00 over the current home equity standard. ~~$587,000. The 1/1/2019 excess home equity standard is $585,000.~~ The individual has no other resources.

The application is denied based on excess home equity. In this example we cannot apply the $2,000 that is over the standard toward the $2,000 resource standard. The home equity can exceed the standard by $1 and the case would need to be denied.

Example #6
Applicant recently entered a nursing home. Equity in the home is $~~552~~900,000. In addition to the home, there is a contiguous property worth $150,000. There is no spouse or dependents. The applicant intends to return to the home.

In this example the home and the contiguous property all count towards the equity limit, so the applicant would be denied for excess home equity.