



PROPOSED RULE MAKING

CR-102 (August 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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FILED

DATE: October 04, 2017

TIME: 8:40 AM

WSR 17-20-103

Agency: Health Care Authority, Washington Apple Health

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR 17-15-095 ; 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).**

☐ **Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject)

New 182-513-1105 - Personal needs allowance (PNA) and room and board standards in a medical institution and alternate living facility (ALF).

Amends:

182-513-1205 - Determining eligibility for noninstitutional coverage in an alternate living facility (ALF)

182-513-1215 - Community first choice (CFC)—Eligibility.

182-513-1225 - Medicaid personal care (MPC)

182-513-1380 - Determining a person's financial participation in the cost of care for long-term care in a medical institution

182-514-0263 - Non-SSI-related institutional medically needy coverage for pregnant women and people age twenty and younger.

182-515-1507 - Home and community based (HCB) waiver services authorized by home and community services (HCS)—Financial eligibility if a person is eligible for an SSI-related noninstitutional categorically needy (CN) medicaid program.

182-515-1509 - Home and community based (HCB) waiver services authorized by home and community services (HCS)—Client financial responsibility.

182-515-1512 - Home and community based (HCB) waiver services authorized by the developmental disabilities administration (DDA)—Financial eligibility if a person is eligible for a

182-515-1514 - Home and community based (HCB) services authorized by the developmental disabilities administration (DDA)—Client financial responsibility.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 7, 2017	10:00 AM	Cherry Street Plaza Sue Crystal, Room 106A 626 8 th Ave, Olympia WA 98504	Metered public parking is available street side around building. A map is available at: www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling: (360) 725-1000

Date of intended adoption: Not sooner than November 8, 2017 (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:

By (date) November 7, 2017 5:00 PM

Assistance for persons with disabilities:

Contact Amber Loughheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: (800) 848-5429 or 711

Email: amber.lougheed@hca.wa.gov

Other:

By (date) November 3, 2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Senate Bill 5118 was signed into law that increases the personal needs allowance based on the Social Security cost of living adjustment. This adjustment is subject to legislative funding. The agency adjusted the PNAs accordingly and moved them into a new section, WAC 182-513-1105, to be kept together.

Reasons supporting proposal: See purpose

Statutory authority for adoption: RCW 41.05.021, 41.05.160, Senate Bill (SB) 5118, 65th Legislature, 2017 Regular Session

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: N/A

Name of proponent: (person or organization) Health Care Authority

☐ Private

☐ Public

☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Vance Taylor	PO Box 42716, Olympia WA 98504-2716	360-725-1344
Implementation:	Stephen Kozak	PO Box 42716, Olympia WA 98504-2716	360-725-1343
Enforcement:	Stephen Kozak	PO Box 42716, Olympia WA 98504-2716	360-725-1343

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 Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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:

☐ RCW 34.05.310 (4)(b)
(Internal government operations)

☐ RCW 34.05.310 (4)(c)
(Incorporation by reference)

☐ RCW 34.05.310 (4)(d)
(Correct or clarify language)

☐ RCW 34.05.310 (4)(e)
(Dictated by statute)

☐ RCW 34.05.310 (4)(f)
(Set or adjust fees)

☐ 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).

Explanation of exemptions, if necessary: This rulemaking applies to client eligibility and does not affect small businesses.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If 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 analysis showing how costs were calculated.

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert 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: October 4, 2017

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



NEW SECTION

WAC 182-513-1105 Personal needs allowance (PNA) and room and board standards in a medical institution and alternate living facility (ALF). (1) This section describes the personal needs allowance (PNA), which is an amount set aside from a client's income that is intended for personal needs, and the room and board standard.

(2) The PNA in a state veteran's nursing facility:

(a) Is \$70 for a veteran without a spouse or dependent children receiving a needs-based veteran's pension in excess of \$90;

(b) Is \$70 for a veteran's surviving spouse with no dependent children receiving a needs-based veteran's pension in excess of \$90; or

(c) Is \$160 for a client who does not receive a needs-based veteran's pension.

(3) The PNA in a medical institution for clients receiving aged, blind, or disabled (ABD) cash assistance or temporary assistance for needy families (TANF) cash assistance is the client's personal and incidental (CPI) cash payment based on residing in a medical institution, which is \$41.62.

(4) The PNA in an alternate living facility (ALF) for clients receiving ABD cash assistance or TANF cash assistance is the CPI based on residing in an ALF that is not an adult family home, which is \$38.84.

(5) The PNA for clients not described in subsections (2), (3), and (4) of this section:

(a) Is \$57.28 for clients who reside in a medical institution; or

(b) Is \$62.79 for clients who reside in an ALF.

(6) Effective January 1, 2018, and each year thereafter, the amount of the PNA in subsection (5) of this section may be adjusted by the percentage of the cost-of-living adjustment (COLA) for old-age, survivors, and disability social security benefits as published by the federal Social Security Administration. This adjustment is subject to state legislative funding.

(7) The room and board standard in an ALF used by home and community services (HCS) and the developmental disabilities administration (DDA) is based on the federal benefit rate (FBR) minus the current PNA as described under subsection (5)(b) of this section.

(8) The current PNA and room and board standards used in long-term services and supports are published under the institutional standards on the Washington apple health (medicaid) income and resource standards chart located at www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.

AMENDATORY SECTION (Amending WSR 17-03-116, filed 1/17/17, effective 2/17/17)

WAC 182-513-1205 Determining eligibility for noninstitutional coverage in an alternate living facility (ALF). (1) This section describes the eligibility determination for noninstitutional coverage for a (~~person~~) client who lives in a department-contracted alternate living facility (ALF) defined under WAC 182-513-1100.

(2) The eligibility criteria for noninstitutional Washington apple health (medicaid) coverage in an ALF follows SSI-related rules under WAC 182-512-0050 through 182-512-0960, with the exception of the higher income standard under subsection (3) of this section.

(3) A ~~((person))~~ client is eligible for noninstitutional coverage under the categorically needy (CN) program if the ~~((person's))~~ client's monthly income after allowable exclusions under chapter 182-512 WAC:

(a) Does not exceed the special income level (SIL) defined under WAC 182-513-1100; and

(b) Is less than or equal to the ~~((person's))~~ client's assessed state rate at a department-contracted facility. To determine the CN standard: $((y \times 31) + \$38.84)$, where "y" is the state daily rate. \$38.84 is based on the cash payment standard for a ~~((person))~~ client living in an ALF setting under WAC 388-478-0006.

(4) A ~~((person))~~ client is eligible for noninstitutional coverage under the medically needy (MN) program if the ~~((person's))~~ client's monthly income after allowable exclusions under chapter 182-512 WAC is less than or equal to the ~~((person's))~~ client's private rate at a department-contracted facility. To determine the MN standard: $((z \times 31) + \$38.84)$, where "z" is the facility's private daily rate. To determine MN spenddown liability, see chapter 182-519 WAC.

(5) For both CN and MN coverage, a ~~((person's))~~ client's countable resources cannot exceed the standard under WAC 182-512-0010.

(6) The agency or ~~((its))~~ the agency's designee approves CN non-institutional coverage for twelve months.

(7) The agency or ~~((its))~~ the agency's designee approves MN non-institutional coverage for a period of months ~~((under chapter 182-504 WAC))~~ described in WAC 182-504-0020 for an SSI-related ~~((person))~~ client, provided the ~~((person))~~ client satisfies any spenddown liability under chapter 182-519 WAC.

(8) ~~((People))~~ Clients who receive medicaid personal care (MPC) or community first choice (CFC) pay all of their income to the ALF except a personal needs allowance ~~((of \$62.79))~~ under WAC 182-513-1105.

(9) A ~~((person))~~ client may have to pay third-party resources as defined under WAC 182-513-1100 in addition to the payment under this subsection.

AMENDATORY SECTION (Amending WSR 17-03-116, filed 1/17/17, effective 2/17/17)

WAC 182-513-1215 Community first choice (CFC)—Eligibility. (1) ~~((An applicant))~~ A client who is determined functionally eligible for community first choice (CFC) services under WAC 388-106-0270 through 388-106-0295 is financially eligible to receive CFC services if the ~~((applicant))~~ client is:

(a) Eligible for a noninstitutional Washington apple health (medicaid) program which provides categorically needy (CN) or alternative benefits plan (ABP) scope of care;

(b) A spousal impoverishment protections institutional (SIPI) spouse under WAC 182-513-1220; or

(c) Determined eligible for a home and community based (HCB) waiver program under chapter 182-515 WAC.

(2) ~~((An applicant))~~ A client whose only coverage is through one of the following programs is not eligible for CFC:

- (a) Medically needy program under WAC 182-519-0100;
- (b) Premium-based children's program under WAC 182-505-0215;
- (c) Medicare savings programs under WAC 182-517-0300;
- (d) Family planning program under WAC 182-505-0115;
- (e) Take charge program under WAC 182-532-0720;
- (f) Medical care services program under WAC 182-508-0005;
- (g) Pregnant minor program under WAC 182-505-0117;
- (h) Alien emergency medical program under WAC 182-507-0110

through 182-507-0120;

(i) State-funded long-term care (LTC) for noncitizens program under WAC 182-507-0125; or

(j) Kidney disease program under chapter 182-540 WAC.

(3) Transfer of asset penalties under WAC 182-513-1363 do not apply to CFC applicants, unless the ~~((applicant))~~ client is applying for long-term services and supports (LTSS) that are available only through one of the HCB waivers under chapter 182-515 WAC.

(4) Home equity limits under WAC 182-513-1350 do apply.

(5) Post-eligibility treatment of income rules do not apply if the ~~((person))~~ client is eligible under subsection (1)(a) or (b) of this section. ~~((People))~~

(6) Clients eligible under subsection (1)(a) or (b) of this section, who reside in an alternate living facility (ALF) ~~((do))~~:

(a) Keep a personal needs allowance (PNA) under WAC 182-513-1105; and

(b) Pay up to the room and board standard~~((The room and board amount is based on the effective one person medically needy income level (MNIL) minus the residential personal needs allowance (PNA)))~~ under WAC 182-513-1105 except when CN eligibility is based on the rules under WAC 182-513-1205.

~~((6) A person who receives CFC and aged, blind, disabled (ABD) cash assistance in an AFH keeps a clothing and personal incidentals (CPI) amount of \$38.84 and pays the remainder of the cash grant and other available income towards room and board.))~~

(7) A ~~((person))~~ client who receives CFC services under the health care for workers with disabilities (HWD) program under chapter 182-511 WAC must pay the HWD premium in addition to room and board under WAC 182-513-1105, if residing in ~~((a residential setting))~~ an ALF.

(8) Post-eligibility treatment of income rules do apply if a ~~((person))~~ client is eligible under subsection (1)(c) of this section.

(9) A ~~((person))~~ client may have to pay third-party resources as defined under WAC 182-513-1100 in addition to the room and board and participation.

(10) PNA, MNIL, and room and board standards are found at ~~((http://))~~ www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.

AMENDATORY SECTION (Amending WSR 17-03-116, filed 1/17/17, effective 2/17/17)

WAC 182-513-1225 Medicaid personal care (MPC). (1) Medicaid personal care (MPC) is a state-plan benefit available to a ~~((person))~~ client who is determined:

(a) Functionally eligible for MPC services under WAC 388-106-0200 through 388-106-0235; and

(b) Financially eligible for a noninstitutional categorically needy (CN) or alternative benefits plan (ABP) Washington apple health (medicaid) program.

(2) MPC services may be provided to a ~~((person))~~ client residing at home, in a department-contracted adult family home (AFH), or in a licensed assisted living facility that is contracted with the department to provide adult residential care services.

(3) A ~~((person))~~ client who resides in an alternate living facility (ALF) listed in subsection (2) of this section:

(a) Keeps a personal needs allowance (PNA) ~~((of \$62.79))~~ under WAC 182-513-1105; and

(b) Pays room and board up to the ~~((statewide))~~ room and board ~~((amount))~~ standard under WAC 182-513-1105, unless CN eligibility is determined using rules under WAC 182-513-1205.

~~(4) ((A person who receives MPC and aged, blind, disabled (ABD) cash assistance in an AFH keeps a clothing and personal incidentals (CPI) amount of \$38.84 and pays the rest of the cash grant and other available income towards room and board.~~

~~(5))~~ A ~~((person))~~ client who receives MPC services under the health care for workers with disabilities (HWD) program under chapter 182-511 WAC must pay the HWD premium in addition to room and board under WAC 182-513-1105, if residing in ~~((a residential setting))~~ an ALF.

~~((6))~~ (5) A ~~((person))~~ client may have to pay third-party resources as defined under WAC 182-513-1100 in addition to room and board.

~~((7))~~ (6) Current PNA and room and board standards are found at ~~((http://))~~ www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.

AMENDATORY SECTION (Amending WSR 17-03-116, filed 1/17/17, effective 2/17/17)

WAC 182-513-1380 Determining a ~~((person's))~~ client's financial participation in the cost of care for long-term care in a medical institution. This rule describes how the agency or ~~((its))~~ the agency's designee allocates income and excess resources when determining participation in the cost of care in a medical institution.

(1) The agency or ~~((its))~~ the agency's designee defines which income and resources must be used in this process under WAC 182-513-1315.

(2) The agency or ~~((its))~~ the agency's designee allocates nonexcluded income in the following order, and the combined total of (a), (b), (c), and (d) of this subsection cannot exceed the effective one-person medically needy income level (MNIL):

(a) A personal needs allowance (PNA) ~~((of:~~

~~(i) For the following people who receive a needs based veteran's pension in excess of \$90 and live in a state veteran's home, \$70:~~

~~(A) A veteran without a spouse or dependent child; or~~

~~(B) A veteran's surviving spouse with no dependent children;~~

~~(ii) For people who live in a state veteran's home and receive a pension of less than \$90, the difference between \$160 and the needs-based veteran's pension amount;~~

~~(iii) For a person living in a state veterans' home who does not receive a needs based veteran's pension, \$160;~~

~~(iv) For all people in a medical institution receiving aged, blind, disabled, (ABD) or temporary assistance for needy families (TANF) cash assistance, \$41.62; or~~

~~(v) For all other people in a medical institution, \$57.28)) under WAC 182-513-1105.~~

(b) Mandatory federal, state, or local income taxes owed by the ((person)) client.

(c) Wages for a ((person)) client who:

(i) Is related to the supplemental security income (SSI) program under WAC 182-512-0050(1); and

(ii) Receives the wages as part of an agency-approved or department-approved training or rehabilitative program designed to prepare the ((person)) client for a less restrictive placement. When determining this deduction, employment expenses are not deducted.

(d) Guardianship fees and administrative costs, including any attorney fees paid by the guardian, as allowed under WAC 182-513-1505 through 182-513-1525.

(3) The agency or ((its)) the agency's designee allocates nonexcluded income after deducting amounts under subsection (2) of this section in the following order:

(a) Current or back child support garnished or withheld from income according to a child support order in the month of the garnishment if it is:

(i) For the current month;

(ii) For the time period covered by the PNA; and

(iii) Not counted as the dependent member's income when determining the dependent allocation amount under WAC 182-513-1385.

(b) A monthly maintenance needs allowance for the community spouse as determined using the calculation under WAC 182-513-1385. If the community spouse is also receiving long-term care services, the allocation is limited to an amount that brings the community spouse's income up to the PNA.

(c) A dependent allowance for each dependent of the institutionalized ((person)) client or the ((person's)) client's spouse, as determined using the calculation under WAC 182-513-1385.

(d) Medical expenses incurred by the institutionalized individual and not used to reduce excess resources. Allowable medical expenses and reducing excess resources are described in WAC 182-513-1350.

(e) Maintenance of the home of a single institutionalized ((person)) client or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the ((person)) client or couple is likely to return to the home within the six-month period; and

(iv) When social services staff documents the need for the income deduction.

(4) A ((person)) client may have to pay third-party resources as defined under WAC 182-513-1100 in addition to the participation.

(5) A ((person)) client is responsible to pay only up to the state rate for the cost of care. If long-term care insurance pays a portion of the state rate cost of care, a ((person)) client pays only the difference up to the state rate cost of care.

(6) When a ((~~person~~)) client lives in multiple living arrangements in a month, the agency allows the highest PNA available based on all the living arrangements and services the ((~~person~~)) client has in a month.

(7) Standards under this section for long-term care are found at ((~~http://~~))www.hca.wa.gov/free-or-low-cost-health-care/program-administration/standards-ltc.

WAC 182-514-0263 Non-SSI-related institutional medically needy coverage for pregnant women and people age twenty and younger. (1) Medically needy (MN) coverage under this section is only available for people age twenty and younger or pregnant women. The medicaid agency determines a ~~((person))~~ client who meets SSI-related criteria under WAC 182-512-0050 eligible for institutional MN coverage under WAC 182-513-1395. If a ~~((person))~~ client meets requirements in both this section and WAC 182-513-1395, the ~~((person))~~ client may choose which program to enroll in for coverage.

(2) A ~~((person))~~ client whose income exceeds the categorically needy (CN) standards under WAC 182-514-0250 and 182-514-0260 is:

(a) Eligible for MN coverage with no spenddown if the ~~((person's))~~ client's countable income (CI) is equal to or less than the department-contracted daily rate times the number of days in the institution;

(b) Eligible for MN coverage after a spenddown under WAC 182-519-0110 is met if the ~~((person's))~~ client's CI is above the department-contracted daily rate times the number of days in the institution but less than the institution's private rate;

(c) Not eligible for payment of long-term care services provided by the institution if the person's CI exceeds the institution's private rate;

(d) Responsible for paying up to the monthly state rate for the facility as participation in the cost of care; and

(e) Allowed to keep a monthly personal needs allowance (PNA) ~~((of at least \$57.28))~~ under WAC 182-513-1105. Current PNA and long-term care standards can be found at ~~((http://))~~ www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx.

(3) If a ~~((person's))~~ client's CI exceeds the institution's private rate, the agency determines eligibility for medical coverage under chapter 182-519 WAC.

WAC 182-515-1507 Home and community based (HCB) waiver services authorized by home and community services (HCS)—Financial eligibility if a ~~((person))~~ client is eligible for an SSI-related noninstitutional categorically needy (CN) medicaid program. (1) A ~~((person))~~ client is financially eligible for home and community based (HCB) waiver services if the client:

(a) ~~((The person))~~ Is receiving coverage under one of the following ~~((supplemental security income (SSI)-related))~~ categorically needy (CN) medicaid programs:

(i) SSI program under WAC 182-510-0001. This includes SSI clients under Section 1619(b) of the Social Security Act;

(ii) SSI-related noninstitutional CN program under chapter 182-512 WAC; or

(iii) Health care for workers with disabilities program (HWD) under chapter 182-511 WAC.

(b) ~~((The person))~~ Does not have a penalty period of ineligibility for the transfer of an asset under WAC 182-513-1363; and

(c) ~~((The person))~~ Does not own a home with equity in excess of the requirements under WAC 182-513-1350.

(2) A ~~((person))~~ client eligible under this section does not pay toward the cost of care, but must pay room and board if living in an alternate living facility (ALF) under WAC 182-513-1100.

(3) A ~~((person))~~ client eligible under this section who lives in a department-contracted ALF described under WAC 182-513-1100 ~~((and does not receive a cash grant from the department of social and health services under WAC 388-400-0060))~~:

(a) Keeps a personal needs allowance (PNA) ~~((of \$62.79))~~ under WAC 182-513-1105; and

(b) Pays towards room and board ~~((up to the room and board standard with the remaining income. The room and board standard is the federal benefit rate (FBR) minus \$62.79))~~ under WAC 182-513-1105.

(4) A ~~((person))~~ client who is eligible under the HWD program must pay the HWD premium under WAC 182-511-1250, in addition to room and board, if residing in an ALF.

(5) ~~((A person who is eligible for the aged, blind, disabled (ABD) cash assistance program under WAC 388-400-0060 does not pay toward the cost of care and keeps:~~

(a) ~~The cash grant amount authorized under WAC 388-478-0033 if living at home;~~

(b) ~~A PNA of \$38.84, but must pay towards room and board with the remaining income and ABD cash grant up to the room and board standard if living in an adult family home (AFH). The room and board standard is the federal benefit rate (FBR) minus \$62.79; or~~

(c) ~~The cash grant of \$38.84 under WAC 388-478-0006 if living in an assisted living facility.~~

~~((6)))~~ Current resource, income, PNA, and room and board standards are found at ~~((http://))~~ www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.

WAC 182-515-1509 Home and community based (HCB) waiver services authorized by home and community services (HCS)—Client financial responsibility. (1) A ~~((person))~~ client eligible for home and community based (HCB) waiver services authorized by home and community services (HCS) under WAC 182-515-1508 must pay toward the cost of care and room and board under this section.

(a) Post-eligibility treatment of income, participation, and participate are all terms that refer to a ~~((person's))~~ client's responsibility towards cost of care.

(b) Room and board is a term that refers to a ~~((person's))~~ client's responsibility toward food and shelter in an alternate living facility (ALF).

(2) The agency determines how much a ~~((person))~~ client must pay toward the cost of care for HCB waiver services authorized by HCS when living at home:

(a) A single ~~((person))~~ client who lives at home (as defined in WAC 388-106-0010) keeps a personal needs allowance (PNA) of up to the federal poverty level (FPL) and must pay the remaining available income toward cost of care after allowable deductions described in subsection (4) of this section.

(b) A married ~~((person))~~ client who lives with the ~~((person's))~~ client's spouse at home (as defined in WAC 388-106-0010) keeps a PNA of up to the effective one-person medically needy income level (MNIL) and pays the remainder of the ~~((person's))~~ client's available income toward cost of care after allowable deductions under subsection (4) of this section.

(c) A married ~~((person))~~ client who lives at home and apart from the ~~((person's))~~ client's spouse keeps a PNA of up to the FPL but must pay the remaining available income toward cost of care after allowable deductions under subsection (4) of this section.

(d) A married couple living at home where each ~~((person))~~ client receives HCB waiver services is each allowed to keep a PNA of up to the FPL but must pay remaining available income toward cost of care after allowable deductions under subsection (4) of this section.

(e) A married couple living at home where each ~~((person))~~ client receives HCB waiver services, one ~~((person))~~ spouse authorized by the developmental disabilities administration (DDA) and the other authorized by HCS, is allowed the following:

(i) The ~~((person))~~ client authorized by DDA pays toward the cost of care under WAC 182-515-1512 or 182-515-1514; and

(ii) The ~~((person))~~ client authorized by HCS retains the federal poverty level (FPL) and pays the remainder of the available income toward cost of care after allowable deductions under subsection (4) of this section.

(3) The agency determines how much a ~~((person))~~ client must pay toward the cost of care for HCB waiver services authorized by HCS and room and board when living in a department contracted alternate living facility (ALF) defined under WAC 182-513-1100 ~~((a person))~~. A Client:

(a) Keeps a PNA of ~~((\$62.79))~~ under WAC 182-513-1105;

(b) Pays room and board up to the room and board standard ~~((The room and board standard is the federal benefit rate (FBR) minus \$62.79))~~ under WAC 182-513-1105; and

(c) Pays the remainder of available income toward the cost of care after allowable deductions under subsection (4) of this section.

(4) If income remains after the PNA and room and board liability under subsection (2) or (3) of this section, the remaining available income must be paid toward the cost of care after it is reduced by deductions in the following order:

(a) An earned income deduction of the first \$65 plus one-half of the remaining earned income;

(b) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed under WAC 182-513-1505 through 182-513-1525;

(c) Current or back child support garnished or withheld from the ((person's)) client's income according to a child support order in the month of the garnishment if it is for the current month. If the agency allows this as a deduction from income, the agency does not count it as the child's income when determining the family allocation amount in WAC 182-513-1385;

(d) A monthly maintenance-needs allowance for the community spouse as determined under WAC 182-513-1385. If the community spouse is also receiving long-term care services, the allocation is limited to an amount that brings the ((person's)) community spouse's income to the ((person's)) community spouse's PNA, as calculated under WAC 182-513-1385;

(e) A monthly maintenance-needs allowance for each dependent of the institutionalized ((person)) client, or the ((person's)) client's spouse, as calculated under WAC 182-513-1385;

(f) Incurred medical expenses which have not been used to reduce excess resources. Allowable medical expenses are under WAC 182-513-1350.

(5) The total of the following deductions cannot exceed the special income level (SIL) defined under WAC 182-513-1100:

(a) The PNA allowed in subsection (2) or (3) of this section, including room and board;

(b) The earned income deduction in subsection (4)(a) of this section; and

(c) The guardianship fees and administrative costs in subsection (4)(b) of this section.

(6) A ((person)) client may have to pay third-party resources defined under WAC 182-513-1100 in addition to the room and board and participation.

(7) A ((person)) client must pay the ((person's)) client's provider the sum of the room and board amount, and the cost of care after all allowable deductions, and any third-party resources defined under WAC 182-513-1100.

(8) A ((person)) client on HCB waiver services does not pay more than the state rate for cost of care.

(9) When a ((person)) client lives in multiple living arrangements in a month, the agency allows the highest PNA available based on all the living arrangements and services the ((person)) client has received in a month.

(10) Standards described in this section are found at ((http://))www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.

WAC 182-515-1512 Home and community based (HCB) waiver services authorized by the developmental disabilities administration (DDA)—Financial eligibility if a ~~((person))~~ client is eligible for a noninstitutional SSI-related categorically needy (CN) program. (1) A ~~((person))~~ client is financially eligible for home and community based (HCB) waiver services authorized by the developmental disabilities administration (DDA) if:

(a) The ~~((person))~~ client is receiving coverage under one of the following ~~((SSI-related))~~ categorically needy (CN) medicaid programs:

(i) Supplemental security income (SSI) program under WAC 182-510-0001. This includes SSI clients under 1619(b) status; or

(ii) Health care for workers with disabilities (HWD) under chapter 182-511 WAC; or

(iii) SSI-related noninstitutional (CN) program under chapter 182-512 WAC; or

(iv) The foster care program under WAC 182-505-0211 and the ~~((person))~~ client meets disability requirements under WAC 182-512-0050.

(b) The ~~((person))~~ client does not have a penalty period of ineligibility for the transfer of an asset as under WAC 182-513-1363; and

(c) The ~~((person))~~ client does not own a home with equity in excess of the requirements under WAC 182-513-1350.

(2) A ~~((person))~~ client eligible under this section does not pay toward the cost of care, but must pay room and board if living in an alternate living facility (ALF) under WAC 182-513-1100.

(3) A ~~((person))~~ client eligible under this section who lives in a department-contracted ALF described under WAC 182-513-1100:

(a) Keeps a personal needs allowance (PNA) ~~((of \$62.79))~~ under WAC 182-513-1105; and

(b) Pays towards room and board up to the room and board standard ~~((with remaining income. The room and board standard is the federal benefit rate (FBR) minus \$62.79))~~ under WAC 182-513-1105.

(4) A ~~((person))~~ client who is eligible under the HWD program must pay the HWD premium under WAC 182-511-1250, in addition to room and board if residing in an ALF.

(5) ~~((A person who is eligible for the aged, blind, disabled (ABD) cash assistance program under WAC 388-400-0060 does not pay participation toward the cost of care and keeps the following:~~

~~((a) The cash grant amount authorized under WAC 388-478-0033 if living at home;~~

~~((b) A PNA of \$38.84, but must pay towards room and board with the remaining income and ABD cash grant for the cost of room and board up to the room and board standard if living in an adult family home (AFH). The room and board standard is the federal benefit rate (FBR) minus \$62.79; or~~

~~((c) The cash grant of \$38.84 authorized under WAC 388-478-0006 when living in an assisted living or DDA group home.~~

~~((6))~~ Current resource, income, PNA and room and board standards are found at ~~((http://))~~ www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.

WAC 182-515-1514 Home and community based (HCB) services authorized by the developmental disabilities administration (DDA)—Client financial responsibility. (1) A ((person)) client eligible for home and community based (HCB) waiver services authorized by the developmental disabilities administration (DDA) under WAC 182-515-1513 must pay toward the cost of care and room and board under this section.

(a) Post-eligibility treatment of income, participation, and participate are all terms that refer to a ((person's)) client's responsibility towards cost of care.

(b) Room and board is a term that refers to a ((person's)) client's responsibility toward food and shelter in an alternate living facility (ALF).

(2) The agency determines how much a ((person)) client must pay toward the cost of care for home and community based (HCB) waiver services authorized by the DDA when the ((person)) client is living at home, as follows:

(a) A single ((person)) client who lives at home (as defined in WAC 388-106-0010) keeps a personal needs allowance (PNA) of up to the special income level (SIL) defined under WAC 182-513-1100.

(b) A single ((person)) client who lives at home on the roads to community living program authorized by DDA keeps a PNA up to the SIL but must pay any remaining available income toward cost of care after allowable deductions described in subsection (4) of this section.

(c) A married ((person)) client who lives with the ((person's)) client's spouse at home (as defined in WAC 388-106-0010) keeps a PNA of up to the SIL but must pay any remaining available income toward cost of care after allowable deductions under subsection (4) of this section.

(d) A married couple living at home where each ((person)) client receives HCB waiver services, one authorized by DDA and the other authorized by home and community services (HCS) is allowed the following:

(i) The ((person)) client authorized by DDA keeps a PNA of up to the SIL but must pay any remaining available income toward the ((person's)) client's cost of care after allowable deductions in subsection (4) of this section; and

(ii) The ((person)) client authorized by HCS pays toward the cost of care under WAC 182-515-1507 or 182-515-1509.

(3) The agency determines how much a ((person)) client must pay toward the cost of care for HCB wavier services authorized by DDA and room and board when the ((person)) client is living in a department-contracted ALF defined under WAC 182-513-1100. A ((person)) client:

(a) Keeps a PNA ((of \$62.79)) under WAC 182-513-1105;

(b) Pays room and board up to the room and board standard((. The room and board standard is the federal benefit rate (FBR) minus \$62.79)) under WAC 182-513-1105; and

(c) Pays the remainder of available income toward the cost of care after allowable deductions under subsection (4) of this section.

(4) If income remains after the PNA and room and board liability under subsection (2) or (3) of this section, the remaining available income must be paid toward the cost of care after it is reduced by allowable deductions in the following order:

(a) An earned income deduction of the first \$65, plus one-half of the remaining earned income;

(b) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed under WAC 182-513-1505 through 182-513-1525;

(c) Current or back child support garnished or withheld from the ((person's)) client's income according to a child support order in the month of the garnishment if it is for the current month. If the agency allows this as a deduction from income, the agency does not count it as the child's income when determining the family allocation amount in WAC 182-513-1385;

(d) A monthly maintenance-needs allowance for the community spouse under WAC 182-513-1385. If the community spouse is on long-term care services, the allocation is limited to an amount that brings the ((person's)) community spouse's income to the ((person's)) community spouse's PNA;

(e) A monthly maintenance-needs allowance for each dependent of the institutionalized ((person)) client, or the ((person's)) client's spouse, as calculated under WAC 182-513-1385; and

(f) Incurred medical expenses which have not been used to reduce excess resources. Allowable medical expenses are under WAC 182-513-1350.

(5) The total of the following deductions cannot exceed the SIL defined under WAC 182-513-1100:

(a) The PNA described in subsection (2) or (3) of this section, including room and board;

(b) The earned income deduction in subsection (4)(a) of this section; and

(c) The guardianship fees and administrative costs in subsection (4)(b) of this section.

(6) A ((person)) client may have to pay third-party resources defined under WAC 182-513-1100 in addition to the room and board and participation.

(7) A ((person)) client must pay the ((person's)) client's provider the sum of the room and board amount, the cost of care after all allowable deductions, and any third-party resources defined under WAC 182-513-1100.

(8) A ((person)) client on HCB waiver services does not pay more than the state rate for cost of care.

(9) When a ((person)) client lives in multiple living arrangements in a month, the agency allows the highest PNA available based on all the living arrangements and services the ((person)) client has received in a month.

(10) Standards described in this section are found at ((http://))www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.