



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON  
FILED

DATE: June 06, 2019

TIME: 2:30 PM

WSR 19-13-010

**Agency:** Health Care Authority

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** The agency replaced references to Retirement, Survivors, Disability Insurance (RSDI) and Social Security Disability Insurance (SSDI) with Old Age, Survivors, and Disability Insurance (OASDI). This change is to provide consistent references to the OASDI benefits provided under Title II of the Social Security Act in the agency's SSI-related income and resource rules for Medicaid. Both of these WACs refer to the same three types of benefits that the Social Security Administration (SSA) pays to eligible beneficiaries. A person who receives one or more of these cash payments is automatically related by category to one or more Medicaid eligibility groups. A common term for these SSA benefits is the OASDI program.

**Citation of rules affected by this order:**

New:  
 Repealed:  
 Amended: 182-512-0550, 182-512-0700  
 Suspended:

**Statutory authority for adoption:** RCW 41.05.021, 41.05.160

**Other authority:** N/A

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 19-10-079 on May 1, 2019 (date).  
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:  
 Address:  
 Phone:  
 Fax:  
 TTY:  
 Email:  
 Web site:  
 Other:

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

|                                  |     |     |         |     |          |     |
|----------------------------------|-----|-----|---------|-----|----------|-----|
| Federal statute:                 | New | ___ | Amended | ___ | Repealed | ___ |
| Federal rules or standards:      | New | ___ | Amended | ___ | Repealed | ___ |
| Recently enacted state statutes: | New | ___ | Amended | ___ | Repealed | ___ |

**The number of sections adopted at the request of a nongovernmental entity:**

|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted on the agency's own initiative:**

|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |     |         |          |          |     |
|-----|-----|---------|----------|----------|-----|
| New | ___ | Amended | <u>2</u> | Repealed | ___ |
|-----|-----|---------|----------|----------|-----|

**The number of sections adopted using:**

|                                |     |     |         |          |          |     |
|--------------------------------|-----|-----|---------|----------|----------|-----|
| Negotiated rule making:        | New | ___ | Amended | ___      | Repealed | ___ |
| Pilot rule making:             | New | ___ | Amended | ___      | Repealed | ___ |
| Other alternative rule making: | New | ___ | Amended | <u>2</u> | Repealed | ___ |

**Date Adopted:** June 6, 2019

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



**WAC 182-512-0550 SSI-related medical—All other excluded resources.** All resources described in this section are excluded resources for SSI-related medical programs. Unless otherwise stated, interest earned on the resource amount is counted as unearned income.

(1) Resources necessary for a person who is blind or disabled to fulfill a self-sufficiency plan approved by the agency.

(2) Retroactive payments from SSI or (~~RSDI~~) old age, survivors, and disability insurance (OASDI), including benefits a person receives under the interim assistance reimbursement agreement with the Social Security Administration, are excluded for nine months following the month of receipt. This exclusion applies to:

(a) Payments received by the person, the person's spouse, or any other person financially responsible for the person;

(b) SSI payments for benefits due for the month(s) before the month of continuing payment;

(c) (~~RSDI~~) OASDI payments for benefits due for a month that is two or more months before the month of continuing payment; and

(d) Proceeds from these payments as long as they are held as cash, or in a checking or savings account. The funds may be commingled with other funds, but must remain identifiable from the other funds for this exclusion to apply. This exclusion does not apply once the payments have been converted to any other type of resource.

(3) All resources specifically excluded by federal law, such as those described in subsections (4) through (11) of this section as long as such funds are identifiable.

(4) Payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(5) The excluded resources described in WAC 182-512-0770 and other resources of American Indians/Alaska Natives that are excluded by federal law.

(6) Restitution payment and any interest earned from this payment to persons of Japanese or Aleut ancestry who were relocated and interned during war time under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act.

(7) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims.

(8) Payments or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

(9) Payments or interest accrued on payments received under the Energy Employees Occupational Illness Compensation Act of 2000 (EEOICA) received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

(10) Payments from:

(a) The Dutch government under the Netherlands' Act on Benefits for Victims of Persecution (WUV).

(b) The Victims of Nazi Persecution Act of 1994 to survivors of the Holocaust.

(c) Susan Walker vs. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.) (May 8, 1997) settlement funds.

(d) Ricky Ray Hemophilia Relief Fund Act of 1998 P.L. 105-369.

(11) The unspent social insurance payments received due to wage credits granted under sections 500 through 506 of the Austrian General Social Insurance Act.

(12) Tax refunds and earned income tax credit refunds and payments are excluded as resources for twelve months after the month of receipt.

(13) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt.

(14) Cash or in-kind items received as a settlement for the purpose of repairing or replacing a specific excluded resource are excluded:

(a) For nine months. This includes relocation assistance provided by state or local government.

(b) Up to a maximum of thirty months, when:

(i) The person intends to repair or replace the excluded resource; and

(ii) Circumstances beyond the control of the settlement recipient prevented the repair or replacement of the excluded resource within the first or second nine months of receipt of the settlement.

(c) For an indefinite period, if the settlement is from federal relocation assistance.

(d) Permanently, if the settlement is assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States, or is comparable assistance received from a state or local government or from a disaster assistance organization. Interest earned on this assistance is also excluded from resources. Any cash or in-kind items received as a settlement and excluded under this subsection are (~~con-~~~~sidered as~~) available resources when not used within the allowable time periods.

(15) Insurance proceeds or other assets recovered by a Holocaust survivor.

(16) Pension funds owned by an ineligible spouse. Pension funds are defined as funds held in a(n):

(a) Individual retirement account (IRA) as described by the IRS code; or

(b) Work-related pension plan (including plans for self-employed persons, known as Keogh plans).

(17) Cash payments received from a medical or social service agency to pay for medical or social services are excluded for one calendar month following the month of receipt.

(18) SSA- or division of vocational rehabilitation (DVR)-approved plans for achieving self-support (PASS) accounts, allowing blind or disabled persons to set aside resources necessary for the achievement of the plan's goals, are excluded.

(19) Food and nutrition programs with federal involvement. This includes Washington Basic Food, school reduced and free meals and milk programs and WIC.

(20) Gifts to, or for the benefit of, a person under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that code, as follows:

(a) In-kind gifts that are not converted to cash; or

(b) Cash gifts up to a total of two thousand dollars in a calendar year.

(21) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children.

(22) The following are among assets that are not ((considered)) resources and as such are neither excluded nor counted:

(a) Home energy assistance/support and maintenance assistance;

(b) Retroactive in-home supportive services payments to ineligible spouses and parents; and

(c) Gifts of domestic travel tickets.

(23) For a more complete list, please see ((POMS-@)) the program operations manual system (POMS) at <http://policy.ssa.gov/poms.nsf/lnx/0501130050>.

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

**WAC 182-512-0700 SSI-related medical—Income eligibility.** (1)

In order to be eligible, a person is required to do everything necessary to obtain any income to which he or she is entitled including (but not limited to):

(a) Annuities;

(b) Pensions;

(c) Unemployment compensation;

(d) Retirement; and

(e) Disability benefits; even if their receipt makes the person ineligible for agency services, unless the person can provide evidence showing good reason for not obtaining the benefits.

(2) The agency does not count this income until the person begins to receive it. Income is budgeted prospectively for all Washington apple health (WAH) health care programs.

(3) Anticipated nonrecurring lump sum payments other than retroactive SSI/SSDI payments are considered income in the month received, subject to reporting requirements in WAC 182-504-0110. Any unspent portion is considered a resource the first of the following month.

(4) The agency follows income and resource methodologies of the supplemental security income (SSI) program defined in federal law when determining eligibility for WAH SSI-related medical or medicare savings programs unless the agency adopts rules that are less restrictive than those of the SSI program.

(5) Exceptions to the SSI income methodology:

(a) Lump sum payments from a retroactive ((SSDI)) old age, survivors, and disability insurance (OASDI) benefit, when reduced by the amount of SSI received during the period covered by the payment, are not counted as income;

(b) Unspent retroactive lump sum money from SSI or ((SSDI)) OASDI is excluded as a resource for nine months following receipt of the lump sum; and

(c) Both the principal and interest portions of payments from a sales contract, that meet the definition in WAC 182-512-0350(10), are unearned income.

(6) To be eligible for WAH categorically needy (CN) SSI-related health care coverage, a person's countable income cannot exceed the WAH CN program standard described in:

(a) WAC 182-512-0010 for noninstitutional WAH coverage unless living in an alternate living facility; or

(b) WAC ((~~182-513-1305(2)~~) 182-513-1205) for noninstitutional WAH CN coverage while living in an alternate living facility; or

(c) WAC 182-513-1315 for institutional and waiver services coverage.

(7) To be eligible for SSI-related health care coverage provided under the WAH medically needy (MN) program, a person must:

(a) Have countable income at or below the effective WAH MN program standard as described in WAC 182-519-0050;

(b) Satisfy spenddown requirements described in WAC 182-519-0110;

(c) Meet the requirements for noninstitutional WAH MN coverage while living in an alternate living facility (ALF). See WAC ((~~182-513-1305(3)~~) 182-513-1205); or

(d) Meet eligibility for institutional WAH MN coverage described in WAC 182-513-1315.