

RCW 11.54.040 Increase in amount of award—Factors for consideration. (Effective until August 1, 2024.) (1) If it is demonstrated to the satisfaction of the court with clear, cogent, and convincing evidence that a claimant's present and reasonably anticipated future needs during the pendency of any probate proceedings in the state of Washington with respect to basic maintenance and support will not otherwise be provided for from other resources, and that the award would not be inconsistent with the decedent's intentions, the amount of the award may be increased in an amount the court determines to be appropriate.

(2) In determining the needs of the claimant, the court shall consider, without limitation, the resources available to the claimant and the claimant's dependents, and the resources reasonably expected to be available to the claimant and the claimant's dependents during the pendency of the probate, including income related to present or future employment and benefits flowing from the decedent's probate and nonprobate estate.

(3) In determining the intentions of the decedent, the court shall consider, without limitation:

(a) Provisions made for the claimant by the decedent under the terms of the decedent's will or otherwise;

(b) Provisions made for third parties or other entities under the decedent's will or otherwise that would be affected by an increased award;

(c) If the claimant is the surviving spouse or surviving domestic partner, the duration and status of the marriage or the state registered domestic partnership of the decedent to the claimant at the time of the decedent's death;

(d) The effect of any award on the availability of any other resources or benefits to the claimant;

(e) The size and nature of the decedent's estate; and

(f) Oral or written statements made by the decedent that are otherwise admissible as evidence.

The fact that the decedent has named beneficiaries other than the claimant as recipients of the decedent's estate is not of itself adequate to evidence such an intent as would prevent the award of an amount in excess of that provided for in *RCW 6.13.030(2) with respect to lands.

(4) (a) A petition for an increased award may only be made if a petition for an award has been granted under RCW 11.54.010. The request for an increased award may be made in conjunction with the petition for an award under RCW 11.54.010.

(b) Subject to (a) of this subsection, a request for an increased award may be made at any time during the pendency of the probate proceedings. A request to modify an increased award may also be made at any time during the pendency of the probate proceedings by a person having an interest in the decedent's estate that will be directly affected by the requested modification. [2008 c 6 s 919; 1997 c 252 s 51.]

***Reviser's note:** RCW 6.13.030 was amended by 2021 c 290 s 3, significantly changing subsection (2).

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

RCW 11.54.040 Increase in amount of award for support during pendency of proceedings—Factors for consideration. (Effective August 1, 2024.) (1) If a claimant demonstrates to the satisfaction of the court that a claimant's present and reasonably anticipated future needs with respect to basic maintenance and support during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets will not be provided from other resources and that an increased award would not be inconsistent with the decedent's intentions or principles of equity and fairness, the amount of the award may be increased above the amount of the basic award in an amount that the court determines to be needed for a claimant's present and reasonably anticipated future needs with respect to basic maintenance and support during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets.

(2) In determining the needs of the claimant, the court shall consider, without limitation, the resources available to the claimant and the claimant's dependent children, and the resources reasonably expected to be available to the claimant and the claimant's dependent children during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets, including income related to present or future employment and benefits flowing from the decedent's probate and nonprobate estate.

(3) In determining the intentions of the decedent, the court shall consider, without limitation:

(a) Provisions made for the claimant by the decedent under the terms of the decedent's will or otherwise;

(b) Provisions made for third parties or other entities under the decedent's will or otherwise that would be affected by an increased award;

(c) If the claimant is the surviving spouse or surviving registered domestic partner, the duration and status of the marriage or the state registered domestic partnership of the decedent to the claimant at the time of the decedent's death;

(d) The effect of any award on the availability of any other resources or benefits to the claimant;

(e) The size and nature of the decedent's probate and nonprobate estate; and

(f) Oral or written statements made by the decedent that are otherwise admissible as evidence.

The fact that the decedent has named beneficiaries other than the claimant as recipients of the decedent's estate is not of itself adequate to evidence such an intent as would prevent the award of an amount in excess of the basic award that is provided in RCW 11.54.020(1).

(4) (a) The court may only grant an increased award if a petition for a basic award has been granted under RCW 11.54.010. The request for an increased award may be made in conjunction with the petition for an award under RCW 11.54.010.

(b) Subject to (a) of this subsection (4), a request for an increased award may be made at any time during the pendency of any proceedings under this title relating to the decedent's probate or

nonprobate assets. A request to modify an increased award may also be made at any time during the pendency of the probate proceedings by a person having an interest in the decedent's estate that will be directly affected by the requested modification. [2024 c 20 s 7; 2008 c 6 s 919; 1997 c 252 s 51.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.