

Chapter 182-509 WAC

INCOME AND RESOURCES

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

182-509-0005	MCS income—Ownership and availability. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0005, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0015	MCS income—Excluded income types. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0015, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0025	MCS income—Unearned income. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0025, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0030	MCS income—Earned income. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0030, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0035	MCS income—Educational benefits. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0035, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0045	MCS income—Employment and training programs. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0045, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.

182-509-0055	MCS income—Needs-based assistance from other agencies or organizations. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0055, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0065	MCS income—Gifts—Cash and noncash. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0065, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0080	MCS income—Self-employment income. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0080, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0085	MCS income—Self-employment income—Calculation of countable income. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0085, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0095	MCS income—Allocating income—General. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0095, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0100	MCS income—Allocating income—Definitions. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0100, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0110	MCS income—Allocating income to legal dependents. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0110, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0135	MCS income—Allocating income of an ineligible spouse to a medical care services (MCS) client. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0135, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0155	MCS income—Exemption from sponsor deeming for medical care services (MCS). [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0155, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
182-509-0165	MCS income—Income calculation. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0165, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.

- 182-509-0175 MCS income—Earned income work incentive deduction. [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0175, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
- 182-509-0200 MCS resources—How resources affect eligibility for medical care services (MCS). [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0200, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
- 182-509-0205 MCS resources—How resources count toward the resource limits for medical care services (MCS). [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0205, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
- 182-509-0210 MCS resources—How vehicles count toward the resource limit for medical care services (MCS). [Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0210, filed 9/13/12, effective 10/14/12.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.
- 182-509-0225 Excluded resources for family medical programs. [WSR 12-13-056, recodified as § 182-509-0225, filed 6/15/12, effective 7/1/12. Statutory Authority: RCW 74.08.090, 74.08A.100, 74.09.080, and 74.09.415. WSR 02-17-030, § 388-470-0026, filed 8/12/02, effective 9/12/02. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530 and 2000 2nd sp.s. c 1 § 210(12). WSR 01-18-006, § 388-470-0026, filed 8/22/01, effective 9/22/01.] Repealed by WSR 14-16-019, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155.

WAC 182-509-0001 Countable income for Washington apple health programs. (1) For purposes of Washington apple health (WAH) program eligibility, a person's countable income is income which remains when:

- (a) The income cannot be specifically excluded; and
- (b) All appropriate deductions and disregards allowed by a specific program have been applied.

(2) A person's countable income may not exceed the income standard for the specific WAH program, unless the program allows for those limits to be exceeded. Specific program standards are described below:

(a) For modified adjusted gross income (MAGI)-based programs described in WAC 182-503-0510, see WAC 182-505-0100 for the applicable program standard based on a percentage of the federal poverty level (FPL);

(b) For WAH SSI-related CN coverage, see WAC 182-512-0010;

(c) For WAH MN coverage, see WAC 182-519-0050;

(d) For WAH for workers with disabilities, see WAC 182-511-1060;

(e) For WAH medicare savings programs, see WAC 182-517-0100;

(f) For WAH noninstitutional medical in an alternative living facility, see WAC 182-513-1305; and

(g) For WAH long-term care programs, see WAC 182-513-1315 and 182-513-1395.

(3) For the MAGI-based programs listed below, the agency or its designee determines eligibility based on the

countable MAGI income of the members of the person's medical assistance unit as determined per WAC 182-506-0010:

(a) WAH for parents and caretaker relatives program as described in WAC 182-505-0240;

(b) WAH pregnancy program as described in WAC 182-505-0115;

(c) WAH for kids programs as described in WAC 182-505-0210 with the following exceptions:

(i) Newborn children born to a woman who is eligible for WAH on the date of the newborn's birth, including a retroactive eligibility determination;

(ii) Children who are receiving SSI;

(iii) Children who are in foster care or receiving subsidized adoption services.

(d) WAH MAGI-based adult medical as described in WAC 182-505-0250; and

(e) WAH MAGI-based alien emergency medical as described in WAC 182-507-0110.

(4) For the following SSI-related WAH programs, unless the state has adopted more liberal rules, income rules for the SSI program are used to determine a person's countable income:

(a) WAH noninstitutional SSI-related CN or medically needy (MN) coverage described in chapters 182-511 and 182-512 WAC;

(b) WAH institutional SSI-related CN or MN long-term care or hospice coverage described in chapters 182-513 and 182-515 WAC;

(c) WAH alien emergency medical programs based on age sixty-five or older or disability described in chapter 182-507 WAC; and

(d) WAH medicare savings programs described in chapter 182-517 WAC.

(5) Anticipated nonrecurring lump sum payments received by an applicant or recipient of a WAH SSI-related medical program are counted as income in the month of receipt, subject to reporting requirements, with the exception of retroactive supplemental security income (SSI)/Social Security disability lump sum payments. See WAC 182-512-0300(4) and 182-512-0700 for more information.

(6) Countable income for the WAH refugee medical (RMA) program and WAH MN program for pregnant women and children is determined as follows:

(a) The agency or its designee allows the following deductions from a person's gross earnings:

(i) Fifty percent of gross earned income;

(ii) Actual work-related child and dependent care expenses, which are the person's responsibility; and

(iii) Court or administratively ordered current or back support paid to meet the needs of legal dependents.

(b) Only income actually contributed to an alien client from the alien's sponsor is countable unless the sponsor signs the affidavit of support I-864 or I-864A.

(c) Nonrecurring lump sum payments are counted as income in the month of receipt and as a resource if the person retains the payment after the month of receipt (resource limits do not apply to MN coverage for pregnant women and children). For RMA, nonrecurring lump sum payments are counted as income if received in the month of application and

not considered if received thereafter per WAC 182-507-0130.

(7) Countable income rules for other WAH programs that are not MAGI-based or SSI-related are described in the specific program rules listed in WAC 182-503-0510 (3)(c).

(8) Some WAH programs are not based on a person's or household's countable income but are based on a specific status or entitlement in federal rule. The rules for these deemed eligible WAH programs are described in WAC 182-503-0510(4).

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0001, filed 12/9/13, effective 1/9/14. WSR 11-23-091, recodified as § 182-509-0001, filed 11/17/11, effective 11/21/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, 74.09.700, and 2007 c 5. WSR 08-05-018, § 388-450-0210, filed 2/12/08, effective 3/14/08. Statutory Authority: RCW 74.08.090, 74.09.530, and 74.09.415. WSR 05-23-013, § 388-450-0210, filed 11/4/05, effective 1/1/06. Statutory Authority: RCW 74.08.090, 74.08A.100, 74.09.080, and 74.09.-415. WSR 02-17-030, § 388-450-0210, filed 8/12/02, effective 9/12/02. Statutory Authority: RCW 74.08.090, 74.08A.100, and Title XIX State Plan amendment 00-008. WSR 02-03-009, § 388-450-0210, filed 1/4/02, effective 2/4/02. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0210, filed 7/31/98, effective 9/1/98. Formerly WAC 388-505-0580, 388-505-0590 and 388-519-1910.]

WAC 182-509-0220 Washington apple health—How resources are considered. (1) A resource is any cash, other personal property, or real property that a person:

- (a) Owns;
- (b) Has the right, authority, or power to convert to cash (if not already cash); and
- (c) Has the legal right to use for his or her support and maintenance.

(2) There is no resource limit for an applicant or recipient of the following Washington apple health (WAH) programs:

- (a) WAH for workers with disabilities (HWD) program, as described in chapter 182-511 WAC;
- (b) WAH foster care program (see WAC 182-505-0211);
- (c) All programs that are based on modified adjusted gross income (MAGI) methodologies, as described in WAC 182-503-0510. This includes the following:
 - (i) WAH for parents and caretaker relatives (see WAC 182-505-0240);
 - (ii) WAH for pregnant women (see WAC 182-505-0115);
 - (iii) WAH for kids (see WAC 182-505-0210);
 - (iv) Premium-based WAH for kids (see WAC 182-505-0215);
 - (v) WAH long-term care for children and adults (see WAC 182-514-0230);
 - (vi) WAH for MAGI-based adult coverage (see WAC 182-505-0250); and
 - (vii) WAH MAGI-based adult alien emergency medical (see WAC 182-507-0110).

(3) For all other WAH programs, the resource limits and exclusions can be found in the following chapters:

- (a) WAH SSI-related medical (see chapter 182-512 WAC);
- (b) WAH long-term care (see chapters 182-513 and 182-515 WAC);

(12/21/16)

(c) SSI-related WAH alien medical program (see chapter 182-507 WAC);

(d) Medicare savings program (see WAC 182-517-0310);

(e) WAH for refugees (see WAC 182-507-0130); and

(f) Medical care services (see WAC 182-509-0200).

(4) The agency or its designee determines how trusts, annuities and life estates affect eligibility for WAH coverage for the programs listed in subsections (3)(a) through (f) of this section by following the rules described in chapter 182-516 WAC.

(5) Receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of protected resources, such as fishing, shell-fishing, or selling timber, is considered conversion of an exempt resource during the month of receipt. Any amounts remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if the funds were used to purchase another exempt resource. Any amounts remaining in the form of countable resources (such as in checking or savings accounts) on the first of the month after receipt, will be added to other countable resources for eligibility determinations when a resource determination is required by the specific WAH program. If no resource determination is required by the specific WAH program, eligibility is not affected.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0220, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0300 Modified adjusted gross income (MAGI). (1) The agency uses the modified adjusted gross income (MAGI) methodology to determine eligibility for MAGI-based Washington apple health (WAH) programs described in WAC 182-509-0305.

(2) MAGI methodology is described in WAC 182-509-0300 through 182-509-0375. Generally, MAGI includes adjusted gross income (as determined by the Internal Revenue Code (IRC)) increased by:

(a) Any amount excluded from gross income under Section 911 of the IRC;

(b) Any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax; and

(c) Any amount of Title II Social Security income or Tier 1 Railroad Retirement income which is excluded from gross income under Section 86 of the IRC.

(3) When calculating a person's eligibility for the programs listed in WAC 182-509-0305, the agency uses the person's MAGI income with the following exceptions:

(a) Scholarships or fellowship grants described in WAC 182-509-0335 used for education purposes are excluded from income;

(b) Income received by American Indian/Alaskan Native individuals described in WAC 182-509-0340 is excluded from income; and

(c) Any income received as a lump sum as described in WAC 182-509-0375 is counted as income only in the month in which it is received.

(4) Countable MAGI income is reduced by an amount equal to five percentage points of the federal poverty level

(FPL) based on household size to determine net income except that there is no such reduction of countable MAGI income for parents or caretaker relatives with an eligible dependent child whose net countable income is below fifty-four percent of the FPL (as described in WAC 182-509-0305(1)). Net income is compared to the applicable standard described in WAC 182-505-0100.

(5) When calculating a person's eligibility for MAGI-based programs listed in WAC 182-509-0305, the agency determines the medical assistance unit for each person according to WAC 182-506-0010.

[Statutory Authority: RCW 41.05.021, 41.05.160, P.L. 111-148, 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-21-040, § 182-509-0300, filed 10/7/14, effective 11/7/14. Statutory Authority: RCW 41.05.021, P.L. 111-148, 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0300, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0305 MAGI income—Persons subject to the modified adjusted gross income (MAGI) methodology. Eligibility for Washington apple health (WAH) for the following persons is determined using the modified adjusted gross income (MAGI) methodology described in WAC 182-509-0300.

(1) Parents or caretaker relatives with an eligible dependent child (described in WAC 182-503-0565) whose net countable income is below fifty-four percent of the federal poverty level (FPL) as described in WAC 182-505-0240.

(2) Parents or caretaker relatives with an eligible dependent child whose net countable income exceeds the standard described in subsection (1) of this section but is at or below one hundred thirty-three percent FPL as described in WAC 182-505-0250 and 182-507-0110.

(3) Adults with no eligible dependent child with net countable income at or below one hundred thirty-three percent FPL as described in WAC 182-505-0250 and 182-507-0110.

(4) Pregnant women or women within a two-month postpartum period whose net countable income, based on a household size that includes any unborn children, is below one hundred ninety-three percent FPL at the time of application, as described in WAC 182-505-0115.

(5) Children age eighteen or younger in households with net countable income which is below two hundred ten percent FPL as described in WAC 182-505-0210 (3)(a).

(6) Children age eighteen or younger in households with net countable income which is between two hundred ten percent and three hundred twelve percent FPL as described in WAC 182-505-0215. Children who are eligible under this section are subject to premiums as described in WAC 182-505-0225.

(7) Household size for a person who is subject to MAGI income methodologies is determined according to WAC 182-506-0010.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0305, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0310 MAGI income—Timing of income. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

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(1) The agency uses a point-in-time estimate to determine a person's countable income.

(2) Point-in-time means that the income is received, or is likely to be received, in the month in which the person submits an application or renewal for WAH, or the month in which the agency completes a redetermination of coverage, with the following provisions:

(a) When a person is paid less frequently than on a monthly basis, (for example, they are self-employed), the agency uses an average to calculate the monthly amount. The average is calculated by:

(i) Adding the total income for representative period of time;

(ii) Dividing by the number of months in the time frame; and

(iii) Using the result as a monthly average.

(b) When a person is paid more frequently than on a monthly basis, the agency uses the following budgeting method to calculate a monthly amount:

(i) If the person is paid weekly, the agency multiplies weekly expected income by 4.3;

(ii) If the person is paid every other week, the agency multiplies expected income by 2.15.

(c) If the person's current income does not represent his or her projected income as evidenced by clear indications of future changes in income, the agency permits the person to estimate a monthly amount by averaging income over a representative period of time.

(3) If the person normally gets the income:

(a) On a specific day, the agency counts it as available on that date.

(b) Monthly or twice monthly and pay dates change due to a reason beyond the person's control, such as a weekend or holiday, it is counted in the month it would normally be received.

(c) Weekly or every other week and pay dates change due to a reason beyond the person's control, it is counted in the month it would normally be received.

(4) For information about how income is verified, see WAC 182-503-0050.

(5) If the person reports a change in income as required under WAC 182-504-0105 and the change is expected to last for two months or longer, the agency updates the estimate of income based on this change, unless the person receives categorically needy WAH coverage as a pregnant woman or child.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0310, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0315 MAGI income—Ownership of income. (1) For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300) income is considered available to a person if:

(a) An individual in the person's medical assistance unit receives or can reasonably predict that he or she will receive the income.

(b) The income must be counted based on rules under chapter 182-509 WAC.

(c) The person has control over the income, which means the income is available to them. If the person has a representative payee, protective payee, or other individual who manages the income on the person's behalf, it is considered as if the person has control over this income.

(d) The person can use the income to meet current needs.

(2) Income that is included in the person's taxable gross income which is required to be reported to the Internal Revenue Service (IRS) is considered as available even if it is paid to someone else or withheld to pay a garnishment, lien or other obligation. (For example, a person manages a block of apartments and lives in one of the apartments. The employer withholds a portion of the person's monthly wages as rent due for the apartment in which he resides. The income that is counted is the gross amount prior to the deduction for rent.)

(3) The agency may conduct post-eligibility reviews of health care applications as described in WAC 182-503-0050. Upon request by the agency, a person must provide proof about a type of income, including submitting clarification on:

- (a) Who owns the income;
- (b) Who has legal control of the income;
- (c) The amount of the income; or
- (d) If the income is available.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0315, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0320 MAGI income—Noncountable income. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) Some types of income are not counted when determining eligibility for MAGI-based WAH. Under the MAGI income methodology described in WAC 182-509-0300, income is not counted if the Internal Revenue Service (IRS) permits it to be excluded or deducted for purposes of determining the tax liability of a person. (See 26 U.S.C. Sections 62(a) and 101-140.)

(2) Examples of income that are not counted include, but are not limited to:

(a) Bona fide loans, except certain student loans as specified under WAC 182-509-0335;

(b) Federal income tax refunds and earned income tax credit (EITC) payments for up to twelve months from the date received;

(c) Child support payments received by any person included in household size under WAC 182-506-0010;

(d) Time loss benefits or other compensation received for sickness or injury, such as benefits from the department of labor and industries (L&I) or a private insurance company;

(e) Title IV-E and state foster care maintenance payments;

(f) Veteran's benefits including, but not limited to, disability compensation and pension payments for disabilities paid to the veteran or family members; education, training and subsistence; benefits under a dependent-care assistance program for veterans, housebound allowance and aid and attendance benefits;

(g) Educational assistance that is not counted under WAC 182-509-0335;

(h) Native American benefits and payments that are not counted under WAC 182-509-0340;

(i) Income from employment and training programs that is not counted under WAC 182-509-0345;

(j) Needs-based assistance from other agencies or organizations that is not counted under WAC 182-509-0350;

(k) Money withheld from a benefit to repay an overpayment from the same income source;

(l) One-time payments issued under the Department of State or Department of Justice reception and replacement programs, such as Voluntary Agency (VOLAG) payments;

(m) Any portion of income used to repay the cost of obtaining that income source;

(n) Insurance proceeds or other income received as a result of being a Holocaust survivor;

(o) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(p) Federal twenty-five dollar supplement weekly unemployment compensation payment authorized by the American Recovery and Reinvestment Act of 2009;

(q) Income from a sponsor given to a sponsored immigrant;

(r) Energy assistance payments;

(s) Fringe benefits provided on a pretax basis by an employer, such as transportation benefits or moving expenses;

(t) Employer contributions to certain pretax benefits funded by an employee's elective salary reduction, such as amounts for a flexible spending account;

(u) Distribution of pension payments paid by the employee (such as premiums or contributions) that were previously subject to tax;

(v) Gifts or inheritances to the person that are not counted under WAC 182-509-0355;

(w) Death benefits from life insurance and certain benefits paid for deaths that occur in the line of duty; and

(x) Other payments that are excluded from income under state or federal law.

(3) Income received from the following cash programs is not countable income for MAGI-based WAH programs:

(a) Diversion cash assistance (DCA);

(b) Temporary assistance for needy families (TANF);

(c) State family assistance (SFA);

(d) Pregnant women's assistance (PWA);

(e) Refugee cash assistance (RCA);

(f) Aged, blind, disabled cash assistance (ABD); and

(g) Supplemental security income (SSI).

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0320, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0325 MAGI income—Unearned income. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) Unearned income is income received from a source other than employment or self-employment. Examples of unearned income include, but are not limited to:

(a) Tier 1 Railroad Retirement;

(b) Unemployment compensation, except as described in WAC 182-509-0320;

- (c) Title II Social Security benefits (including retirement benefits, disability benefits, and benefits for survivors);
 - (d) Rental income;
 - (e) Pensions, IRAs, military retirement and annuity payments, except as described in WAC 182-509-0320;
 - (f) Dividend payments from stocks or shares held in companies; and
 - (g) Per capita distributions from gaming made by a tribe (see WAC 182-509-0340).
- (2) When the unearned income must be counted, the agency counts the gross amount before any taxes or premiums are taken out.
- (3) See WAC 182-509-0320 for examples of unearned income that are not counted.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0325, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0330 MAGI income—Earned income.

For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

- (1) Earned income is income received from working. This includes, but is not limited to:
- (a) Wages;
 - (b) Salaries;
 - (c) Tips;
 - (d) Commissions;
 - (e) Profits from self-employment activities as described in WAC 182-509-0365; and
 - (f) One-time payments for work done over a period of time, if the income is received in the month of application.
- (2) When earned income must be counted, the agency computes the countable amount based on deductions from income allowed by the Internal Revenue Service when determining a person's tax liability.
- (3) See WAC 182-509-0370 for information on how self-employment income is counted.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0330, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0335 MAGI income—Educational benefits. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300), the agency or its designee does not count educational assistance as income. Examples include, but are not limited to:

- (1) Educational assistance in the form of grants or loans issued under Title IV of the Higher Education Amendments (Title IV - HEA) or through a program administered by the Department of Education (DOE), such as:
 - (a) Pell grants (Title IV);
 - (b) Stafford loans (Title IV);
 - (c) Perkins loan program (Title IV);
 - (d) State need grant program (Title IV);
 - (e) Christa McAuliffe fellowship program (DOE);
 - (f) Jacob K. Javits fellowship program (DOE); and
 - (g) Library career training program (DOE).

(2) Payments received for education, training, or subsistence under any law administered by the department of Veteran's Affairs (VA).

(3) Student financial assistance provided under the Bureau of Indian Affairs education programs.

(4) Educational assistance in the form of grants or loans under the Carl D. Perkins Vocational and Applied Technology Education Act, P.L. 101-392.

(5) Work study income including:

(a) Federal or state work study income; and

(b) WorkFirst work study income.

(6) Payments to service academy cadets at a military academy.

(7) Payments for the purposes of tuition made on behalf of the individual to an educational organization for the education or training of such individual.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0335, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0340 MAGI income—American Indian/Alaska Native excluded income. For the purposes of determining eligibility of American Indians/Alaska Natives for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300), the agency excludes from MAGI the following:

(1) Distributions from Alaska Native corporations and settlement trusts;

(2) Distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the Secretary of the Interior;

(3) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:

(a) Rights of ownership or possession in any lands described in (b) of this subsection; or

(b) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources.

(4) Distributions resulting from real property ownership interests related to natural resources and improvements that are:

(a) Located on or near a reservation or within the most recent boundaries of a prior federal reservation; or

(b) Resulting from the exercise of federally protected rights relating to such real property ownership interests.

(5) Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom;

(6) Student financial assistance provided under the Bureau of Indian Affairs education programs; and

(7) Any other applicable income exclusion as provided by federal law, regulation, or rule, including the Internal Revenue Code, treasury regulations, and Internal Revenue Service revenue rulings, revenue procedures, notices, and other official tax guidance.

[Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-102, § 182-509-0340, filed 12/18/13, effective 1/18/14.]

WAC 182-509-0345 MAGI income—Income from employment and training programs. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) The agency excludes income received from the following programs:

(a) Payments issued under the Workforce Investment Act (WIA);

(b) Payments issued under the National and Community Service Trust Act of 1993. This includes payments made through the AmeriCorps program;

(c) Payments issued under Title I of the Domestic Volunteer Act of 1973, such as VISTA, AmeriCorps VISTA, University Year for Action, and Urban Crime Prevention Program; and

(d) All payments issued under Title II of the Domestic Volunteer Act of 1973. These include:

(i) Retired senior volunteer program (RSVP);

(ii) Foster grandparents program; and

(iii) Senior companion program.

(2) The agency counts training allowances from vocational and rehabilitative programs as earned income when:

(a) The program is recognized by federal, state, or local governments;

(b) The allowance is not a reimbursement; and

(c) The person is required to file a U.S. tax return and the IRS considers the income to be taxable.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0345, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0350 MAGI income—Needs-based assistance from other agencies or organizations. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) The agency does not count needs-based assistance given to a person by other agencies or organizations if the assistance given is not treated as taxable income by the IRS. Examples of needs-based assistance are:

(a) Clothing;

(b) Food;

(c) Household supplies;

(d) Medical supplies (nonprescription);

(e) Personal care items;

(f) Shelter;

(g) Transportation; and

(h) Utilities (e.g., lights, cooking fuel, the cost of heating or heating fuel).

(2) "Needs-based" means eligibility for the program is based on having limited income and/or resources. This definition excludes such incomes as retirement benefits or unemployment compensation which are not needs-based.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0350, filed 12/9/13, effective 1/9/14.]

(12/21/16)

WAC 182-509-0355 MAGI income—Gifts and inheritances. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) A gift is property received by a person without work or cost on his or her part. An inheritance is property received by a person from the estate of a deceased person.

(2) The agency does not count as income to a person any gifts or inheritances, whether cash or noncash, received by the person, except that the agency does count as income to a person any income from any gift or inheritance.

(3) The agency does not count as income to a person any amounts paid on behalf of that person to any person who provides medical care (as defined in Internal Revenue Code Section 213(d)) to that person.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0355, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0360 MAGI income—How the income of a child age eighteen or younger or a tax dependent is counted. The medicaid agency determines what income is counted when determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health under WAC 182-509-0300.

(1) When determining countable income for persons described in subsections (2) through (4) of this section, the countable income of a child age eighteen or younger or of a tax dependent is included only when it meets the threshold required for tax filing under 26 U.S.C. Sec. 6012 (a)(1). For purposes of this section, countable income of a child or tax dependent does not include Social Security dependent benefits.

(2) Determining countable income of a tax filer. The countable income of a tax filer includes the countable income of each member in the tax filer's medical assistance unit (MAU) under WAC 182-506-0012(1).

(3) Determining countable income of a tax dependent. The countable income of a tax dependent includes the countable income of each member in the tax dependent's MAU under WAC 182-506-0012(2).

(4) Determining countable income of a nonfiler. The countable income of a nonfiler, including a person considered a nonfiler under WAC 182-506-0012 (2)(b)(ii), includes the countable income of each member in the nonfiler's MAU under WAC 182-506-0012(3).

[Statutory Authority: RCW 41.05.021, 41.05.160. WSR 17-02-001, § 182-509-0360, filed 12/21/16, effective 1/21/17. Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0360, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0365 MAGI income—Self-employment income. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) Self-employment income is income earned by a person from running a business, performing a service, selling items that are made, or reselling items with the intent to make a profit. This income can be earned if the person is carrying on a trade or business as a sole proprietor or an independent contractor; a member of a partnership that carries on a trade

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or business; or otherwise in business for themselves (including a part-time business).

(2) A person is considered to be self-employed if they earn income without having an employer/employee relationship with the individual who pays the income. Factors to consider are:

(a) The person has primary control or has the right to control what they do and how they do their job;

(b) The business aspects of the person's job are controlled by the person and not the payer (this includes things like how the person is paid, whether expenses are reimbursed, or who provides tools/supplies);

(c) The person has a written contract stating that he or she is an independent contractor; or

(d) The person reports his or her income using IRS Schedule C, Schedule C-EZ, Schedule K-1, or Schedule SE.

(3) A person is considered to have an employer/employee relationship when:

(a) The individual the person provides services for has primary control of how the work is done; or

(b) The person receives an IRS Form W-2 to report the income that is earned.

(4) Self-employment does not have to be a licensed business for a person's business or activity to qualify as self-employment. Some examples of self-employment are:

(a) Child care that requires a license under chapter 74.15 RCW;

(b) Driving a taxi cab;

(c) Farming/fishing;

(d) Odd jobs such as mowing lawns, house painting, gutter cleaning, or car care;

(e) Running lodging for roomers or boarders. Roomer income includes money paid to a person for shelter costs by someone not included in the person's household who resides in the same home when:

(i) The person owns or is buying his or her residence; or

(ii) The person rents all or a part of the residence and the total rent charged to all others in the home is more than the total rent obligation of the person.

(f) Running an adult family home;

(g) Providing services such as a massage therapist or a professional escort;

(h) Retainer fees to reserve a bed for a foster child;

(i) Selling home-made items or items that are supplied to the individual;

(j) Selling or donating biological products such as providing blood or reproductive material for profit;

(k) Working as an independent contractor; and

(l) Running a business or trade either as a sole proprietorship or in a partnership.

(5) A person must keep records of his or her self-employment income and deductions and provide this information to the agency upon request.

(6) The agency does not count receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of exempt resources as self-employment income (such as fishing, shell-fishing, or selling timber from protected tribal land). This is considered conversion of a resource. See WAC 182-509-0340.

(7) A person who is an employee of a company or other individual who does the activities listed in subsection (4) of

this section as a part of his or her job duties is not considered to be self-employed.

(8) Self-employment income is counted as earned income as described in WAC 182-509-0330.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0365, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0370 MAGI income—How self-employment income is counted. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) If the person has worked long enough at the business to file a federal tax return for the previous year and it represents his or her current income, the agency determines self-employment income by using the income and deductions claimed on the previous year's tax return.

(2) If the person has not worked long enough at the business to file a federal tax return in the previous year, the agency permits a determination of monthly self-employment income by:

(a) Adding together gross self-employment income and any profit made from selling business property or equipment over the period of time the business has been in operation within the last year;

(b) Subtracting business expenses and income deduction expenses allowed by the Internal Revenue Service that the person would be entitled to if they were filing a full year return; and

(c) Averaging the income to come up with a monthly amount based on the period of time the business has been in operation within the last year.

(3) If the person's current income does not represent his or her projected income as evidenced by clear indications of future changes in income, the agency permits the person to estimate a monthly amount by averaging income over a representative period of time.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0370, filed 12/9/13, effective 1/9/14.]

WAC 182-509-0375 MAGI income—Lump sums. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) A lump sum payment is money that a person receives but does not expect to receive on a continuing basis, such as an insurance settlement.

(2) Any portion of a lump sum payment that is awarded for wrongful death, personal injury, damage, or loss of property is excluded from income.

(3) Any remaining portion of a lump sum payment is counted as income if it is received in the month of application, unless it qualifies as noncounted income under another rule, and with the exception of subsections (4) and (5) of this section.

(4) Receipt of a lump sum by a member of a federally recognized tribe from exercising federally protected rights or extraction of exempt resources is considered an exempt

resource in the month of receipt and is not budgeted as income.

(5) Federal, state and local tax refunds (including any interest and penalties) and earned income tax lump sums are not counted as income.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0375, filed 12/9/13, effective 1/9/14.]