

# Chapter 388-79A WAC

## GUARDIANSHIP FEES FOR MEDICAID CLIENTS

### WAC

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**WAC 388-79A-001 Definitions.** The following definitions apply to this chapter:

(1) "Client" means a person who is eligible for and is receiving medicaid-funded long-term care.

(2) "Guardianship fees" or "fees" means necessary fees charged by a guardian for services rendered on behalf of a client.

(3) "Participate" or "participation" means the amount a client must pay each month toward the cost of long-term care services received each month. It is the amount remaining after the post-eligibility process under:

(a) WAC 182-513-1380 for a client residing in a medical institution, as defined under WAC 182-500-0050;

(b) WAC 182-515-1509 for a client receiving home and community services (HCS) waived services in an alternate living facility (ALF), as defined under WAC 182-513-1100, or in an at-home setting; or

(c) WAC 182-515-1514 for a client receiving developmental disability administration (DDA) waived services in an ALF, as defined under WAC 182-513-1100, or in an at-home setting.

(4) "Related costs" or "costs" means necessary costs paid by the guardian, including attorney fees.

[Statutory Authority: RCW 43.20B.460, 11.92.180, and 74.08.090. WSR 18-10-067, § 388-79A-001, filed 4/30/18, effective 6/1/18.]

**WAC 388-79A-005 Maximum amount of guardianship fees and related costs for a long-term care medicaid eligible client.** (1) As mandated by RCW 43.20B.460 and in accordance with RCW 11.92.180, the maximum amount of guardianship fees and related costs must not exceed the limits of this section when the person under guardianship is:

(a) A medicaid eligible client, residing in:

(i) A medical institution, as defined under WAC 182-500-0050;

(ii) An alternate living facility (ALF), as defined under WAC 182-513-1100; or

(iii) An at-home setting; and

(b) Required under chapter 182-513 WAC or chapter 182-515 WAC to participate towards the cost of long-term care.

(2) The maximum amount of guardianship fees and related costs must not exceed the limits of chapter 388-79A WAC when:

(a) The court order establishing guardianship was entered before June 1, 2018; and

(b) The client under guardianship was receiving medicaid-funded long-term care before June 1, 2018.

(3) For all other clients not described under subsection (2) of this section, the maximum amount of guardianship fees and related costs must not exceed the limits under WAC 182-513-1530.

[Statutory Authority: RCW 43.20B.460, 11.92.180, and 74.08.090. WSR 18-10-067, § 388-79A-005, filed 4/30/18, effective 6/1/18.]

**WAC 388-79A-010 Maximum guardianship fees and related costs before June 1, 2018.** (1) This section sets the maximum guardianship fees and related costs when:

(a) The court order was entered before June 1, 2018; and

(b) The client under guardianship was receiving medicaid-funded long-term care before June 1, 2018.

(2) For court orders entered before June 1, 2018, where the order establishes or continues a legal guardianship for a client:

(a) Guardianship fees must not exceed \$175 per month;

(b) Costs directly related to establishing a guardianship for a client must not exceed \$700; and

(c) Costs to maintain the guardianship must not exceed \$600 during any three-year period.

[WSR 18-11-039, recodified as § 388-79A-010, filed 5/8/18, effective 6/1/18. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 18-10-024, § 182-513-1515, filed 4/24/18, effective 6/1/18. WSR 16-15-042, recodified as § 182-513-1515, filed 7/14/16, effective 7/14/16. Statutory Authority: RCW 11.92.180, 43.20B.460. WSR 03-16-022, § 388-79-030, filed 7/28/03, effective 8/28/03; WSR 98-10-055, § 388-79-030, filed 4/30/98, effective 5/31/98.]

**WAC 388-79A-015 Procedure for allowing guardianship fees and related costs from client participation before June 1, 2018.** (1) This section describes the procedure for allowing guardianship fees and related costs from client participation when:

(a) A court order was entered before June 1, 2018; and

(b) The client under guardianship was receiving medicaid-funded long-term care before June 1, 2018.

(2) The medicaid agency or the agency's designee, after receiving the court order, adjusts the client's current participation to reflect the amounts, as allowed under WAC 182-513-1380, 183-515-1509, or 183-515-1514.

(3) A client's participation cannot be prospectively or retrospectively reduced to pay guardianship fees and related costs incurred:

(a) Before the client's long-term care medicaid eligibility effective date;

(b) During any time when the client was not eligible for or did not receive long-term care services; or

(c) After the client has died.

(4) The fees and costs allowed by the court at the final accounting must not exceed the amounts advanced and paid to the guardian from the client's participation if:

(a) The court, at a prior accounting, allowed the guardian to receive guardianship fees and related costs from the client's participation in advance of services rendered by the guardian; and

(b) The client dies before the next accounting.

[WSR 18-11-039, recodified as § 388-79A-015, filed 5/8/18, effective 6/1/18. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 18-10-024, § 182-513-1525, filed 4/24/18, effective 6/1/18. WSR 16-15-042, recodified as § 182-513-1525, filed 7/14/16, effective 7/14/16. Statutory Authority: RCW 11.92.180, 43.20B.460. WSR 03-16-022, § 388-79-050, filed 7/28/03, effective 8/28/03.]