

**WAC 182-516-0200 Annuities established prior to April 1, 2009.**

(1) A revocable annuity is an available resource.

(2) An irrevocable annuity established prior to May 1, 2001, is not an available resource when issued by an individual, insurer, or other body licensed and approved to do business in the jurisdiction in which the annuity is established.

(3) The income from an irrevocable annuity that meets the requirements of this section is income for determining eligibility and the amount of participation in the total cost of care. The annuity itself is not a resource.

(4) Subject to subsection (5) of this section, an annuity established on or after May 1, 2001, and before April 1, 2009, is an available resource unless it:

(a) Is irrevocable;

(b) Is paid out in equal monthly amounts within the actuarial life expectancy of the annuitant;

(c) Is issued by an individual, insurer, or other body licensed and approved to do business in the jurisdiction in which the annuity is established; and

(d) Names the state of Washington as the beneficiary of the remaining funds up to the total of medicaid funds spent on the client during the client's lifetime. This subsection only applies if the annuity is in the client's name.

(5) If an irrevocable annuity is an available resource under subsection (4) of this section because it does not pay out in equal monthly amounts, it is an unavailable resource if:

(a) The full pay out is within the actuarial life expectancy of the client; and

(b) The client:

(i) Changes the scheduled pay out into equal monthly payments within the actuarial life expectancy of the annuitant; or

(ii) Requests that the medicaid agency or the agency's designee calculate and budget the payments as equal monthly payments within the actuarial life expectancy of the annuitant. The income from the annuity remains unearned income to the annuitant.

(6) An irrevocable annuity is unearned income when the annuitant is:

(a) The client;

(b) The spouse of the client;

(c) The blind or disabled child, as defined in WAC 182-512-0050 (1)(b) and (c), of the client; or

(d) A person designated to use the annuity for the sole benefit of the client, client's spouse, or a blind or disabled child, as defined in WAC 182-512-0050 (1)(b) and (c), of the client.

(7) An annuity is not an available resource when there is a joint owner, co-annuitant or an irrevocable beneficiary who will not agree to allow the annuity to be cashed, unless the joint owner or irrevocable beneficiary is the community spouse. In the case of a community spouse, the value of the annuity is an available resource and counts toward the maximum community spouse resource allowance.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 U.S.C. 1396p. WSR 18-04-037, § 182-516-0200, filed 1/30/18, effective 3/2/18. WSR 13-01-017, recodified as § 182-516-0200, filed 12/7/12, effective 1/1/13. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530. WSR 09-06-048, § 388-561-0200, filed 2/25/09, effective 4/1/09; WSR 08-20-117 and 08-21-083, § 388-561-0200, filed

9/30/08 and 10/14/08, effective 4/1/09. Statutory Authority: RCW 74.04.050, 74.08.090, and 74.09.500. WSR 01-06-043, § 388-561-0200, filed 3/5/01, effective 5/1/01.]