WAC 182-512-0350 SSI-related medical—Property and contracts excluded as resources. (1) The agency excludes the following resources when determining eligibility for SSI-related medical assistance:

(a) A client's household goods and personal effects;

(b) One home (which can be any shelter), including the land on which the dwelling is located, and all contiguous property and related out-buildings in which the client has ownership interest for long-term care programs, see WAC 182-513-1350 for home equity limits, when:

(i) The client uses the home as a primary residence;

(ii) The client's spouse lives in the home;

(iii) The client does not currently live in the home, but the client or the client's representative has stated the client intends to return to the home; or

(iv) A relative, who is financially or medically dependent on the client, lives in the home and either the dependency is documented or a written statement of dependency is provided by the client, the client's authorized representative, or by the client's dependent relative.

(c) The value of ownership interest in jointly owned real property is an excluded resource for as long as sale of the property would cause undue hardship to a co-owner due to loss of housing. Undue hardship would result if the co-owner:

(i) Uses the property as the client's principal place of residence;

(ii) Would have to move if the property were sold; and

(iii) Has no other readily available housing.

(2) Proceeds from the sale of an interest described in subsection (1)(b) of this section, are excluded as a resource if the client uses the proceeds to purchase another home by the end of the third month after receiving the proceeds from the sale.

(3) An installment contract from the sale of the home described in subsection (1)(b) above is not a resource as long as the client plans to use the entire down payment and the entire principal portion of a given installment payment to buy another excluded home, and does so within three months after the month of receiving such down payment or installment payment.

(4) The value of sales contracts is excluded when the:

(a) Current market value of the contract is zero;

(b) Contract cannot be sold; or

(c) Current market value of the sales contract combined with other resources does not exceed the resource limits.

(5) Sales contracts executed before December 1, 1993, are excluded resources as long as they are not transferred to someone other than a spouse.

(6) A sales contract for the sale of the client's principal place of residence executed between December 1, 1993, and May 31, 2004, is an excluded resource unless it has been transferred to someone other than a spouse and it:

(a) Provides interest income within the prevailing interest rate at the time of the sale;

(b) Requires the repayment of a principal amount equal to the fair market value of the property; and

(c) The term of the contract does not exceed thirty years.

(7) A sales contract executed on or after June 1, 2004, on a home that was the principal place of residence for the client at the time

of institutionalization is an excluded resource as long as it is not transferred to someone other than a spouse and it:

(a) Provides interest income within the prevailing interest rate at the time of the sale;

(b) Requires the repayment of a principal amount equal to the fair market value of the property within the anticipated life expectancy of the client; and

(c) The term of the contract does not exceed thirty years.

(8) Payments received on sales contracts of the home described in subsection (1)(b) of this section are treated as follows:

(a) The interest portion of the payment is treated as unearned income in the month of receipt of the payment;

(b) The principal portion of the payment is treated as an excluded resource if reinvested in the purchase of a new home within three months after the month of receipt;

(c) If the principal portion of the payment is not reinvested in the purchase of a new home within three months after the month of receipt, that portion of the payment is a liquid resource as of the date of receipt.

(9) Payments received on sales contracts described in subsection (4) of this section are treated as follows:

(a) The principal portion of the payment on the contract is treated as a resource and counted toward the resource limit to the extent retained at the first moment of the month following the month of receipt of the payment; and

(b) The interest portion is treated as unearned income the month of receipt of the payment.

(10) For sales contracts that meet the criteria in subsection (5), (6), or (7) of this section but do not meet the criteria in subsection (3) or (4) of this section, both the principal and interest portions of the payment are treated as unearned income in the month of receipt.

(11) Property essential to self-support (PESS) is excluded as a resource within certain limits. There are three categories of PESS:

(a) Real and personal property used in a trade or business:

(i) That is a resource defined under WAC 182-512-0200;

(ii) That is in current use as described under the Social Security Administration's Program Operations Manual System (POMS) SI 01130.504; and

(iii) Where the trade or business is a sole proprietorship or simple partnership.

(b) Nonbusiness income-producing property (i.e., property not used in a trade or business), such as:

(i) Houses or apartments for rent; and

(ii) Land, other than home property.

(c) Property used to produce goods or services essential to a client's daily activities, such as land used to produce vegetables or livestock, which is used only for personal consumption in the client's household. This includes personal property necessary to perform daily functions including vehicles such as boats for subsistence fishing and garden tractors for subsistence farming, but does not include other vehicles such as those that qualify as automobiles (e.g., cars, trucks).

(12) The agency excludes a client's real and personal property used in a trade or business, described under subsection (11)(a) of this section, regardless of value as long as it is in current use (as

described under POMS SI 01130.504) in the trade or business and remains used in the trade or business.

(13) The agency excludes up to $6,000 of a client's equity in nonbusiness income-producing property, described under subsection (11)(b) of this section, if it produces a net annual income to the client of at least six percent of the excluded equity.

(a) If a client's equity in the property is over $6,000, only the amount over $6,000 is counted toward the resource limit, as long as the net annual income requirement of six percent is met on the excluded equity.

(b) If the six percent requirement is not met due to circumstances beyond the client's control (e.g., illness), and there is a reasonable expectation that the activities will again meet the six percent rule, the same exclusions as in subsection (13)(a) of this section apply.

(c) If a client has more than one piece of real property in this category, each is independently evaluated to see if it meets the six percent return, and the total equities of all those properties are added to see if the total is over $6,000. If the total is over the $6,000 limit, the amount exceeding the limit is counted toward the resource limit.

(d) The equity in each property that does not meet the six percent annual net income limit is counted toward the resource limit, with the exception of property that represents the authority granted by a governmental agency to engage in an income-producing activity if it is:

(i) Used in a trade or business or nonbusiness income-producing activity; or

(ii) Not used due to circumstances beyond the client's control (e.g., illness), and there is a reasonable expectation that the use will resume.

(14) Property used to produce goods or services essential to a client's daily activities is excluded if the client's equity in the property does not exceed $6,000.

(15) Personal property used by a client as an employee for work is not counted toward the resource limit, regardless of value, while in current use (as described under POMS SI 01130.504), or if the required use for work is reasonably expected to resume.

(16) Interests in trust or in restricted Indian land owned by a client who is of Indian descent from a federally recognized Indian tribe or held by the spouse or widow/er of that client, is not counted toward the resource limit if permission of the other people, the tribe, or an agency of the federal government must be received in order to dispose of the land.

(17) Receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of excluded resources, such as fishing, shell-fishing, or selling timber from protected land, is considered conversion of an excluded resource during the month of receipt. Any amount remaining from the conversion of this excluded resource on the first of the month after the month of receipt will remain excluded if it is used to purchase another excluded resource. Any amount remaining in the form of a countable resource (such as in a checking or savings account) on the first of the month after receipt, will be added to other countable resources for eligibility determinations.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 19-21-084, § 182-512-0350, filed 10/14/19, effective 11/14/19. Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (Public Law 111-148), 42 C.F.R. §§ 431, 435, 457 and 45 C.F.R. § 155. WSR 14-07-059, § 182-512-0350, filed 3/14/14, effective 4/14/14. WSR 11-24-018, recodified as § 182-512-0350, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.08.090 and ARRA of 2009, Public Law 111-5, Section 5006(b); 42 C.F.R. 435.601, EEOICPA of 2000, Public Law 106398, Sec. 1, app., Title XXXVI (Oct. 30, 2000) (section 1 adopting as Appendix H.R. 5408), Section 3646 of the Appendix. WSR 10-15-069, § 388-475-0350, filed 7/16/10, effective 8/16/10. Statutory Authority: RCW 74.04.050, 74.08.090. WSR 04-09-003, § 388-475-0350, filed 4/7/04, effective 6/1/04.]