

Chapter 182-512 WAC

SSI-RELATED MEDICAL

WAC

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WAC 182-512-0010 Supplemental Security Income (SSI) standards; SSI-related categorically needy income level (CNIL); and countable resource standards. (1) The SSI payment standards, also known as the federal benefit rate (FBR), change each January 1.

(2) See WAC 388-478-0055 for the amount of the state supplemental payments (SSP) for SSI recipients.

(3) See WAC 388-513-1305 for standards of clients living in an alternate living facility.

(4) The SSI-related CNIL standards are the same as the SSI payment standards for single persons and couples. Those paying out shelter costs have a higher standard than people who have supplied shelter.

(5) The countable resource standards for SSI and SSI-related CN medical programs are:

- (a) One person \$2,000
- (b) A legally married couple \$3,000

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74.09.500. 08-11-098, § 388-478-0080, filed 5/20/08, effective 6/20/08. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530, and Section 1924 of the Social Security Act (42 U.S.C. 1396r-5). 06-06-013, § 388-478-0080, filed 2/17/06, effective 3/20/06. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 42 U.S.C. 9902(2). 05-06-090, § 388-478-0080, filed 3/1/05, effective 4/1/05; 04-16-107, § 388-478-0080, filed 8/3/04, effective 9/3/04. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 42 U.S.C. 1396r-5. 02-10-116, § 388-478-0080, filed 4/30/02, effective 5/31/02. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and Section 1924 (42 U.S.C. 1396R-5). 01-12-073, § 388-478-0080, filed 6/4/01, effective 7/5/01. Statutory Authority: RCW 74.08.090, 74.04.050, 74.04.057, and 74.09.575. 00-10-095, § 388-478-0080, filed 5/2/00, effective 5/2/00; 99-11-054, § 388-478-0080, filed 5/17/99, effective 6/17/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. 98-16-044, § 388-478-0080, filed 7/31/98, effective 9/1/98. Formerly WAC 388-511-1110.]

WAC 182-512-0050 SSI-related medical—General information. (1) The department provides medical benefits under the categorically needy (CN) and medically needy (MN) SSI-related programs for SSI-related people, meaning those who meet at least one of the federal SSI program criteria as being:

- (a) Age sixty-five or older;
- (b) Blind with:
 - (i) Central visual acuity of 20/200 or less in the better eye with the use of a correcting lens; or
 - (ii) A field of vision limitation so the widest diameter of the visual field subtends an angle no greater than twenty degrees.
- (c) Disabled:
 - (i) "Disabled" means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, which:

- (A) Can be expected to result in death; or
- (B) Has lasted or can be expected to last for a continuous period of not less than twelve months; or
- (C) In the case of a child seventeen years of age or younger, if the child suffers from any medically determinable physical or mental impairment of comparable severity.

(ii) Decisions on SSI-related disability are subject to the authority of:

- (A) Federal statutes and regulations codified at 42 USC Sec 1382c and 20 CFR, parts 404 and 416, as amended; and
- (B) Controlling federal court decisions, which define the OASDI and SSI disability standard and determination process.

(2) A denial of Title II or Title XVI federal benefits by SSA solely due to failure to meet the blindness or disability criteria is binding on the department unless the applicant's:

- (a) Denial is under appeal in the reconsideration stage in SSA's administrative hearing process, or SSA's appeals council; or
- (b) Medical condition has changed since the SSA denial was issued.

(3) The department considers a client who meets the special requirements for SSI status under Sections 1619(a) or 1619(b) of the Social Security Act as an SSI recipient. Such a client is eligible for CN medical coverage under WAC 388-474-0005.

(4) Individuals referred to in subsection (1) must also meet appropriate eligibility criteria found in the following WAC and EA-Z Manual sections:

- (a) For all programs:
 - (i) WAC 388-408-0055, Medical assistance units;
 - (ii) WAC 388-416-0015, Categorically needy and WAC 388-416-0020, Medically needy certification periods;
 - (iii) Program specific requirements in chapter 388-475 WAC;
 - (iv) WAC 388-490-0005, Verification;
 - (v) WAC 388-503-0505, General eligibility requirements for medical programs;
 - (vi) WAC 388-505-0540, Assignment of rights and cooperation;
 - (vii) Chapter 388-561 WAC, Trusts, annuities and life estates.

- (b) For LTC programs:
 - (i) Chapter 388-513 WAC, Long-term care services
 - (ii) Chapter 388-515 WAC, Waiver services.
 - (c) For MN, chapter 388-519 WAC, Spenddown;
 - (d) For HWD, program specific requirements in chapter 388-475 WAC.

(5) Aliens who qualify for medicaid benefits, but are determined ineligible because of alien status may be eligible for programs as specified in WAC 388-438-0110.

(6) The department pays for a client's medical care outside of Washington according to WAC 388-501-0180.

(7) The department follows income and resource methodologies of the Supplemental Security Income (SSI) program defined in federal law when determining eligibility for SSI-related medical or medicare cost savings programs unless the department adopts rules that are less restrictive than those of the SSI program.

(8) Refer to WAC 388-418-0025 for effects of changes on medical assistance for redetermination of eligibility.

[11-24-018, recodified as WAC 182-512-0050, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-002, § 388-475-0050, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0100 SSI-related medical—Categorically needy (CN) medical eligibility. (1) Categorically needy (CN) coverage is available for an SSI-related client who:

- (a) Meets the criteria in WAC 388-475-0050, SSI-related medical—General information; or
- (b) Meets the criteria for the state-funded general assistance - Expedited medicaid disability (GA-X) program by meeting the:
 - (i) Requirements of the cash program in WAC 388-400-0025 and 388-478-0030; or
 - (ii) SSI-related disability standards but who cannot get the SSI cash grant due solely to immigration status or sponsor deeming issues.
- (2) To be eligible for SSI-related CN medical programs, a person must also have:

- (a) Countable income and resources at or below the SSI-related CN medical monthly standard (refer to WAC 388-478-0080) or be eligible for an SSI cash grant but choose not to receive it; or

- (b) Countable resources at or below the SSI resource standard and income above the SSI-related CN medical monthly standard, but the countable income falls below that standard after applying special income disregards as described in WAC 388-475-880; or

- (c) Met requirements for long-term care (LTC) CN income and resource requirements that are found in chapters 388-513 and 388-515 WAC if wanting LTC or waiver services.

(3) An ineligible spouse of an SSI recipient is not eligible for noninstitutional SSI-related CN medical benefits. If an ineligible spouse of an SSI recipient has dependent children in the home, eligibility may be determined for family medical programs.

[11-24-018, recodified as WAC 182-512-0100, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-002, § 388-475-0100, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0150 SSI-related medical—Medically needy (MN) medical eligibility. (1) Medically needy (MN) medical coverage is available for any of the following:

- (a) A person who is SSI-related and not eligible for CN medical coverage because they have countable income that is above the CN income standard (or for long-term care (LTC) clients, above the special income limit (SIL)):

- (i) Their countable income is at or below MN standards, leaving them with no spenddown requirement; or

- (ii) Their countable income is above MN standards requiring them to spenddown their excess income (see subsection (4) below). See WAC 388-475-0500 through 388-475-0800 for rules on determining countable income, and WAC 388-478-0080 for program standards or chapter 388-513 WAC for institutional standards.

- (b) An SSI-related ineligible spouse of an SSI recipient;

- (c) An adult who meets SSI program criteria but is not eligible for the SSI cash grant due to immigration status or sponsor deeming. See WAC 388-424-0010 for limits on eligibility for aliens;

- (d) A person who meets the MN LTC services requirements of chapter 388-513 WAC and WAC 388-515-1540;

- (e) A person who lives in an alternate living facility and meets the requirements of WAC 388-513-1305; or

- (f) A person who meets resource requirements as described in chapter 388-475 WAC, elects and is certified for hospice services per chapter 388-551 WAC.

(2) Clients whose countable resources are above the SSI resource standards are not eligible for MN noninstitutional medical benefits. See WAC 388-475-0200 through 388-475-0550 to determine countable resources.

(3) Clients who qualify for services under long term care have different criteria and may spend down excess resources to become eligible for LTC institutional or waiver medical benefits. Refer to WAC 388-513-1315 and 388-513-1395.

(4) A client with income over the medically needy income limit (MNIL) may become eligible for MN coverage when they have incurred medical expenses that are equal to the excess income. This is the process of meeting spend-

down. Refer to chapter 388-519 WAC for spenddown information.

(5) A client may be eligible for medical coverage for up to three months immediately prior to the month of application, if the client:

(a) Met all eligibility requirements for the months being considered; and

(b) Received medical services covered by medicaid during that time.

(6) A client eligible for MN without a spenddown is certified for up to twelve months. For an MN client with spenddown, refer to WAC 388-519-0110. For a long-term care MN client, refer to WAC 388-513-1305 and 388-513-1315.

(7) A client must reapply for each certification period. There is no continuous eligibility for MN. Although each additional certification period requires a new application, if the medical benefits have been closed less than thirty days, an eligibility review form may be used to reapply.

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WAC 182-512-0200 SSI-related medical—Definition of resources. (1) A resource is any cash, other personal property, or real property that an applicant, recipient or other financially responsible 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/her support and maintenance.

(2) The value of a resource may change. However, the property (personal or real) still remains a resource.

(3) Some assets are not resources. Any asset that does not meet the criteria in subsection (1) above is not a resource.

(4) When an SSI-related client owns a bank account or time deposit jointly with others who are also SSI-related clients, we consider the funds as being available to the SSI-related individuals in equal shares, unless sufficient evidence to the contrary is provided.

(5) When an SSI-related client owns a bank account or time deposit jointly with others who are not SSI-related, we consider all funds in the joint account as available to the client unless sufficient evidence to the contrary is provided.

(6) When an SSI-related client jointly owns either real or personal property other than bank accounts or time deposits, the department considers that the client owns and has available only his or her fractional interest in the property unless sufficient evidence to the contrary is provided.

(7) A resource is countable toward the resource limit only if it is available and is not excluded.

[11-24-018, recodified as WAC 182-512-0200, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-002, § 388-475-0200, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0250 SSI-related medical—Ownership and availability of resources. (1) Personal or real property is available to the client if the client, client's spouse or other financially responsible person:

(a) Owns the property;

(b) Has the authority to convert the property into cash;

(c) Can expect to convert the property to cash within twenty working days; and

(d) May legally use the property for his/her support.

(2) A resource is considered available on the first day of the month following the month of receipt unless a rule about a specific type of resource provides for a different time period.

(3) A resource, which ordinarily cannot be converted to cash within twenty working days, is considered unavailable as long as a reasonable effort is being made to convert the resource to cash.

(4) A client may provide evidence showing that a resource is unavailable. A resource is not counted if a client shows sufficient evidence that the resource is unavailable.

(5) We do not count the resources of victims of family violence, as defined in WAC 388-452-0010, when:

(a) The resource is owned jointly with members of the former household;

(b) Availability of the resource depends on an agreement of the joint owner; or

(c) Making the resource available would place the client at risk of harm.

(6) The value of a resource is its fair market value minus encumbrances.

(7) Refer to WAC 388-470-0060 to consider additional resources when an alien has a sponsor.

[11-24-018, recodified as WAC 182-512-0250, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-002, § 388-475-0250, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0300 SSI-related medical—Resources eligibility. (1) At 12:00 a.m. on the first day of the month a client's countable resources must be at or below the resource standard to be eligible for noninstitutional medical benefits for that month. If the total of the client's countable resources is above the resource standard at 12:00 a.m. on the first day of the month, the client is ineligible for noninstitutional medical benefits for that entire month regardless of resource status at the time of application during that month. For resource eligibility relating to long-term care eligibility see chapter 388-513 WAC.

(2) An excluded resource converted to another excluded resource remains excluded.

(3) Cash received from the sale of an excluded resource becomes a countable resource the first of the month following conversion unless the cash is;

(a) Used to replace the excluded resource; or

(b) Invested in another excluded resource in the same month or within the longer time allowed for home sales under WAC 388-475-0350; or

(c) Spent.

(4) The unspent portion of a nonrecurring lump sum payment is counted as a resource on the first of the month following its receipt with the following exception: The unspent portion of any Title II (SSA) or Title XVI (SSI) retroactive payment is excluded as a resource for nine months following the month of receipt. These exclusions apply to lump sums received by the client, client's spouse or any other person who is financially responsible for the client.

(5) Clients applying for SSI-related medical coverage for long-term care (LTC) services must meet different resource rules. See chapter 388-513 WAC for LTC resource rules.

(6) The transfer of a resource without adequate consideration does not affect medical program eligibility except for LTC services described in chapters 388-513 and 388-515 WAC. In those programs, the transfer may make a client ineligible for medical benefits for a period of time. See WAC 388-513-1363 through 388-513-1366 for LTC rules.

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WAC 182-512-0350 SSI-related medical—Property and contracts excluded as resources. (1) The department does not count 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, when:
 - (i) The client uses the home as his or her primary residence; or
 - (ii) The client's spouse lives in the home; or
 - (iii) The client does not currently live in the home but the client or his/her 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 the client, client's representative, or dependent relative has provided a written statement to that effect.
- (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 his or her principal place of residence;
 - (ii) Would have to move if the property were sold; and
 - (iii) Has no other readily available housing.
- (2) Cash proceeds from the sale of the home described in subsection (1)(b) above are not considered if the client uses them 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 person 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 full calendar 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 exempt 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 considered an exempt 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 considered exempt 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) above 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 considered a liquid resource as of the date of receipt.

(9) Payments received on sales contracts described in subsection (4) 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 subsections (5), (6), or (7) but do not meet the criteria in subsections (3) or (4), 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 is not considered a resource within certain limits. The department places property essential to self-support in several categories:

- (a) Real and personal property used in a trade or business (income-producing property), such as:
 - (i) Land,
 - (ii) Buildings,
 - (iii) Equipment,
 - (iv) Supplies,
 - (v) Motor vehicles, and
 - (vi) Tools.
- (b) Nonbusiness income-producing property, such as:
 - (i) Houses or apartments for rent, or
 - (ii) Land, other than home property.

(c) Property used to produce goods or services essential to an individual's daily activities, such as land used to produce vegetables or livestock, which is only used for personal consumption in the individual'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 (cars, trucks).

(12) The department will exclude an individual's equity in real and personal property used in a trade or business (income producing property listed in subsection (11)(a) above) regardless of value as long as it is currently in use in the trade or business and remains used in the trade or business.

(13) The department excludes up to six thousand dollars of an individual's equity in nonbusiness income-producing property listed in subsection (11)(b) above, if it produces a net annual income to the individual of at least six percent of the excluded equity.

(a) If a person's equity in the property is over six thousand dollars, only the amount over six thousand dollars 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 person's control, and there is a reasonable expectation that the activities will again meet the six percent rule, the same exclusions as in subsection (13)(a) above apply.

(c) If a person has more than one piece of property in this category, each is looked at 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 six thousand dollars. If the total is over the six thousand dollars 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 individual'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 an individual's daily activities is excluded if the individual's equity in the property does not exceed six thousand dollars.

(15) Personal property used by an individual for work is not counted, regardless of value, while in current use, or if the required use for work is reasonably expected to resume.

(16) Interests in trust or in restricted Indian land owned by an individual who is of Indian descent from a federally recognized Indian tribe or held by the spouse or widow/er of that individual, is not counted if permission of the other individuals, 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 exempt resources, such as fishing, shell-fishing, or selling timber from protected land, is considered conversion of an exempt resource during the month of receipt. Any amount remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if it is used to purchase another exempt 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.

[11-24-018, recodified as WAC 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. 10-15-069, § 388-475-0350, filed 7/16/10, effective 8/16/10. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-003, § 388-475-0350, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0400 SSI-related medical—Vehicles excluded as resources.

(1) For SSI-related medical programs, a vehicle is defined as anything used for transportation. In addition to cars and trucks, a vehicle can include boats, snowmobiles, and animal-drawn vehicles.

(2) One vehicle is excluded regardless of its value, if it is used to provide transportation for the disabled individual or a member of the individual's household.

(3) For an SSI-related institutional client with a community spouse, one vehicle is excluded regardless of its value or its use. See WAC 388-513-1350 (7)(b).

(4) A vehicle used as the client's primary residence is excluded as the home, and does not count as the one excluded vehicle under subsection (2) or (3).

(5) All other vehicles, except those excluded under WAC 388-475-0350 (11) through (14), are treated as nonliquid resources and the equity value is counted toward the resource limit.

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WAC 182-512-0450 SSI-related medical—Life insurance excluded as a resource.

(1) The department excludes life insurance policies that do not have or cannot accrue a cash surrender value (CSV) in determining whether owned policies exceed the life insurance exclusion limits for resources and in determining burial fund exclusion limits.

(2) Policies owned by each spouse are evaluated and counted separately.

(3) If the total face value of all policies with a CSV potential that a person owns on the same insured is equal to or less than fifteen hundred dollars, the resource is excluded.

(4) If the total face value of all policies with a CSV potential that a person owns on the same insured is more than fifteen hundred dollars, the total CSV of the policies is counted toward the resource limit, unless the client designates such policies as burial funds. If they are designated as burial funds, they must be evaluated under the burial fund exclusion described in WAC 388-475-0500.

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WAC 182-512-0500 SSI-related medical—Burial funds, contracts and spaces excluded as resources. (1) For the purposes of this section, burial funds are funds set aside and clearly designated solely for burial and related expenses and kept separate from all other resources not intended for burial. These include:

- (a) Revocable burial contracts;
- (b) Revocable burial trusts;
- (c) Installment contracts for purchase of a burial space on which payments are still owing;
- (d) Other revocable burial arrangements. The designation is effective the first day of the month in which the person intended the funds to be set aside for burial.

(2) The following burial funds are excluded as resources for the client and spouse up to fifteen hundred dollars each when set aside solely for the expenses of burial or cremation and expenses related to the burial or cremation, and the funds are either:

- (a) An installment contract for purchase of a burial space that is not yet paid in full; or
- (b) In a revocable burial contract, burial trust, cash accounts, or other financial instrument with a definite cash value.

(3) Interest earned in burial funds and appreciation in the value of excluded burial arrangements in subsection (2)(a) and (b) above are excluded from resources and are not counted as income if left to accumulate and become part of the separate burial fund.

(4) The fifteen hundred dollar exclusion for burial funds described in subsection (2) above is reduced by:

- (a) The face value of life insurance with CSV excluded in WAC 388-475-0450; and
- (b) Amounts in an irrevocable burial trust, or other irrevocable arrangement available to meet burial expenses, or burial space purchase agreement installment contracts on which money is still owing. If these reductions bring the balance of the available exclusion to zero, no additional funds can be excluded as burial funds.

(5) An irrevocable burial account, burial trust, or other irrevocable burial arrangement, set aside solely for burial and related expenses is not considered a resource. The amount set aside must be reasonably related to the anticipated death-related expenses in order to be excluded.

(6) A client's burial funds are no longer excluded when they are mixed with other resources that are not related to burial.

(7) When excluded burial funds are spent for other purposes, the spent amount is added to other countable resources and any amount exceeding the resource limit is considered available income on the first of the month it is used. The amount remaining in the burial fund remains excluded.

(8) Burial space and accessories for the client and any member of the client's immediate family described in subsection (9) of this section are excluded. Burial space and accessories include:

- (a) Conventional gravesites;
- (b) Crypts, niches, and mausoleums;

(c) Urns, caskets and other repositories customarily used for the remains of deceased persons;

(d) Necessary and reasonable improvements to the burial space including, but not limited to:

- (i) Vaults and burial containers;
- (ii) Headstones, markers and plaques;
- (iii) Arrangements for the opening and closing of the gravesite; and
- (iv) Contracts for care and maintenance of the gravesite.

(e) A burial space purchase agreement that is currently paid for and owned by the client is also defined as a burial space. The entire value of the purchase agreement is excluded; as well as any interest accrued, which is left to accumulate as part of the value of the agreement. The value of this agreement does not reduce the amount of burial fund exclusion available to the client.

(9) Immediate family, for the purposes of subsection (8) of this section includes the client's:

- (a) Spouse;
- (b) Parents and adoptive parents;
- (c) Minor and adult children, including adoptive and stepchildren;
- (d) Siblings (brothers and sisters), including adoptive and stepsiblings;
- (e) Spouses of any of the above.

None of the family members listed above, need to be dependent on or living with the client, to be considered immediate family members.

[11-24-018, recodified as WAC 182-512-0500, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-003, § 388-475-0500, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0550 SSI-related medical—All other excluded resources. All resources described in this section are excluded resources for SSI-related medical programs. Unless otherwise stated, interest earned on the resource amount is counted as unearned income.

(1) Resources necessary for a client who is blind or disabled to fulfill a department approved self-sufficiency plan.

(2) Retroactive payments from SSI or RSDI, including benefits a client receives under the interim assistance reimbursement agreement with the Social Security Administration, are excluded for nine months following the month of receipt. This exclusion applies to:

- (a) Payments received by the client, spouse, or any other person financially responsible for the client;
- (b) SSI payments for benefits due for the month(s) before the month of continuing payment;
- (c) RSDI payments for benefits due for a month that is two or more months before the month of continuing payment; and

(d) Proceeds from these payments as long as they are held as cash, or in a checking or savings account. The funds may be commingled with other funds, but must remain identifiable from the other funds for this exclusion to apply. This exclusion does not apply once the payments have been converted to any other type of resource.

(3) All resources specifically excluded by federal law, such as those described in subsections (4) through (12) as long as such funds are identifiable.

(4) Payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(5) Payments made to Native Americans as listed in 20 CFR 416.1182, Appendix to subpart K, section IV, paragraphs (b) and (c), and in 20 CFR 416.1236.

(6) The following Native American/Alaska Native funds are excluded resources:

(a) Resources received from a native corporation under the Alaska Native Claims Settlement Act, including:

(i) Shares of stock held in a regional or village corporation;

(ii) Cash or dividends on stock received from the native corporation up to two thousand dollars per person per year;

(iii) Stock issued by a native corporation as a dividend or distribution on stock;

(iv) A partnership interest;

(v) Land or an interest in land; and

(vi) An interest in a settlement trust.

(b) All funds contained in a restricted individual Indian money (IIM) account.

(7) Exercise of federally protected rights, including extraction of exempt resources by a member of a federally recognized tribe during the month of receipt. Any funds from the conversion of the exempt resource which are retained on the first of the month after the month of receipt will be considered exempt if they are in the form of an exempt resource, and will be countable if retained in the form of a countable resource.

(8) Restitution payment and any interest earned from this payment to persons of Japanese or Aleut ancestry who were relocated and interned during war time under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act.

(9) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims.

(10) Payments or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

(11) Payments or interest accrued on payments received under the Energy Employees Occupational Illness Compensation Act of 2000 (EEOICA) received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

(12) Payments from:

(a) The Dutch government under the Netherlands' Act on Benefits for Victims of Persecution (WUV).

(b) The Victims of Nazi Persecution Act of 1994 to survivors of the Holocaust.

(c) *Susan Walker vs. Bayer Corporation, et al.*, 96-C-5024 (N.D. Ill.) (May 8, 1997) settlement funds.

(d) Ricky Ray Hemophilia Relief Fund Act of 1998 P.L. 105-369.

(13) The unspent social insurance payments received due to wage credits granted under sections 500 through 506 of the Austrian General Social Insurance Act.

(14) Tax refunds and earned income tax credit refunds and payments are excluded as resources for twelve months after the month of receipt.

(15) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt.

(16) Cash or in-kind items received as a settlement for the purpose of repairing or replacing a specific excluded resource are excluded:

(a) For nine months. This includes relocation assistance provided by state or local government.

(b) Up to a maximum of thirty months, when:

(i) The client intends to repair or replace the excluded resource; and

(ii) Circumstances beyond the control of the settlement recipient prevented the repair or replacement of the excluded resource within the first or second nine months of receipt of the settlement.

(c) For an indefinite period, if the settlement is from federal relocation assistance.

(d) Permanently, if the settlement is assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States, or is comparable assistance received from a state or local government or from a disaster assistance organization. Interest earned on this assistance is also excluded from resources. Any cash or in-kind items received as a settlement and excluded under this subsection are considered as available resources when not used within the allowable time periods.

(17) Insurance proceeds or other assets recovered by a Holocaust survivor as defined in WAC 388-470-0026(4).

(18) Pension funds owned by an ineligible spouse. Pension funds are defined as funds held in a(n):

(a) Individual retirement account (IRA) as described by the IRS code; or

(b) Work-related pension plan (including plans for self-employed individuals, known as Keogh plans).

(19) Cash payments received from a medical or social service agency to pay for medical or social services are excluded for one calendar month following the month of receipt.

(20) SSA- or DVR-approved plans for achieving self-support (PASS) accounts, allowing blind or disabled individuals to set aside resources necessary for the achievement of the plan's goals, are excluded.

(21) Food and nutrition programs with federal involvement. This includes Washington Basic Food, school reduced and free meals and milk programs and WIC.

(22) Gifts to, or for the benefit of, a person under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that code, as follows:

(a) In-kind gifts that are not converted to cash; or

(b) Cash gifts up to a total of two thousand dollars in a calendar year.

(23) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children.

(24) The following are among assets that are not considered resources and as such are neither excluded nor counted:

(a) Home energy assistance/support and maintenance assistance;

(b) Retroactive in-home supportive services payments to ineligible spouses and parents; and

(c) Gifts of domestic travel tickets. For a more complete list please see POMS @ <http://policy.ssa.gov/poms.nsf/lnx/0501130050>.

[11-24-018, recodified as WAC 182-512-0550, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, chapter 74.12 RCW, and The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. 11-21-025, § 388-475-0550, filed 10/11/11, effective 10/29/11. 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. 10-15-069, § 388-475-0550, filed 7/16/10, effective 8/16/10. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500, and Social Security Act as amended by P.L. 108-203. 06-04-046, § 388-475-0550, filed 1/26/06, effective 2/26/06. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-004, § 388-475-0550, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0600 SSI-related medical—Definition of income. (1) Income is anything an individual receives in cash or in-kind that can be used to meet his/her needs for food, clothing, or shelter. Income can be earned or unearned.

(2) Some receipts are not income because they do not meet the definition of income above, including:

(a) Cash or in-kind assistance from federal, state, or local government programs whose purpose is to provide medical care or services;

(b) Some in-kind payments that are not food, clothing or shelter coming from nongovernmental programs whose purposes are to provide medical care or medical services;

(c) Payments for repair or replacement of an exempt resource;

(d) Refunds or rebates for money already paid;

(e) Receipts from sale of a resource;

(f) Replacement of income already received. See 20 CFR 416.1103 for a more complete list of receipts that are not income; and

(g) Receipts from extraction of exempt resources for a member of a federally recognized tribe.

(3) Earned income includes the following types of payments:

(a) Gross wages and salaries, including garnished amounts;

(b) Commissions and bonuses;

(c) Severance pay;

(d) Other special payments received because of employment;

(e) Net earnings from self-employment (WAC 388-475-0840 describes net earnings);

(f) Self-employment income of tribal members unless the income is specifically exempted by treaty;

(g) Payments for services performed in a sheltered workshop or work activities center;

(h) Royalties earned by an individual in connection with any publication of his/her work and any honoraria received for services rendered; or

(i) In-kind payments made in lieu of cash wages, including the value of food, clothing or shelter.

(4) Unearned income is all income that is not earned income. Some types of unearned income are:

(a) Annuities, pensions, and other periodic payments;

(b) Alimony and support payments;

(c) Dividends and interest;

(d) Royalties (except for royalties earned by an individual in connection with any publication of his/her work and any honoraria received for services rendered which would be earned income);

(e) Capital gains;

(f) Rents;

(g) Benefits received as the result of another's death to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the recipient;

(h) Gifts;

(i) Inheritances;

(j) Prizes and awards; or

(k) Amounts received by tribal members from gaming revenues.

(5) Some items which may be withheld from income, but the department considers as received income are:

(a) Federal, state, or local income taxes;

(b) Health or life insurance premiums;

(c) SMI premiums;

(d) Union dues;

(e) Penalty deductions for failure to report changes;

(f) Loan payments;

(g) Garnishments;

(h) Child support payments, court ordered or voluntary (WAC 388-475-0900 has an exception for deermors);

(i) Service fees charged on interest-bearing checking accounts;

(j) Inheritance taxes;

(k) Guardianship fees if presence of a guardian is not a requirement for receiving the income.

(6) Countable income, for the purposes of this chapter, means all income that is available to the individual:

(a) If it cannot be excluded, and

(b) After deducting all allowable disregards and deductions.

[11-24-018, recodified as WAC 182-512-0600, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.08.090 and ARRA of 2009 (Recovery Act), 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. 10-15-069, § 388-475-0600, filed 7/16/10, effective 8/16/10. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-004, § 388-475-0600, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0650 SSI-related medical—Available income. (1) Income is considered available to a client at the earliest of when it is:

(a) Received, or

(b) Credited to an individual's account, or

(c) Set aside for his or her use, or

(d) Can be used to meet the client's needs for food, clothing or shelter.

(2) Anticipated nonrecurring lump sum payments are treated as income in the month received, with the exception of those listed in WAC 388-475-0700(5), and any remainder is considered a resource in the following month.

(3) Reoccurring income is considered available in the month of normal receipt, even if the financial institution posts it before or after the month of normal receipt.

(4) In-kind income received from anyone other than a legally responsible relative is considered available income only if it is earned income.

[11-24-018, recodified as WAC 182-512-0650, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-004, § 388-475-0650, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0700 SSI-related medical—Income eligibility. (1) In order to be eligible, a client is required do everything necessary to obtain any income to which they are entitled including (but not limited to):

- (a) Annuities,
- (b) Pensions,
- (c) Unemployment compensation,
- (d) Retirement, and
- (e) Disability benefits; even if their receipt makes the client ineligible for department services, unless the client can provide evidence showing good reason for not obtaining the benefits.

The department does not count this income until the client begins to receive it.

(2) Income is budgeted prospectively for all medical programs.

(3) Anticipated nonrecurring lump sum payments other than retroactive SSI/SSDI payments are considered income in the month received, subject to reporting requirements in WAC 388-418-0007(4). Any unspent portion is considered a resource the first of the following month.

(4) The department follows income and resource methodologies of the Supplemental Security Income (SSI) program defined in federal law when determining eligibility for SSI-related medical or medicare savings programs unless the department adopts rules that are less restrictive than those of the SSI program.

(5) Exceptions to the SSI income methodology:

(a) Lump sum payments from a retroactive SSDI benefit, when reduced by the amount of SSI received during the period covered by the payment, are not counted as income;

(b) Unspent retroactive lump sum money from SSI or SSDI is excluded as a resource for nine months following receipt of the lump sum; and

(c) Both the principal and interest portions of payments from a sales contract, that meet the definition in WAC 388-475-0350(10), are unearned income.

(6) To be eligible for categorically needy (CN) SSI-related medical coverage, a client's countable income cannot exceed the CN program standard described in:

(a) WAC 388-478-0065 through 388-478-0085 for non-institutional medical unless living in an alternate living facility; or

(b) WAC 388-513-1305(2) for noninstitutional CN benefits while living in an alternate living facility; or

(c) WAC 388-513-1315 for institutional and waiver services medical benefits.

(7) To be eligible for SSI-related medical coverage provided under the medically needy (MN) program, a client must:

(a) Have countable income at or below the MN program standard as described in WAC 388-478-0070; or

(b) Satisfy spenddown requirements described in WAC 388-519-0110;

(c) Meet the requirements for noninstitutional MN benefits while living in an alternate living facility (ALF). See WAC 388-513-1305(3); or

(d) Meet eligibility for the MN waiver program. See WAC 388-515-1540 and 388-515-1550.

[11-24-018, recodified as WAC 182-512-0700, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500, and Social Security Act as amended by P.L. 108-203. 06-04-046, § 388-475-0700, filed 1/26/06, effective 2/26/06. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-004, § 388-475-0700, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0750 SSI-related medical—Countable unearned income. The department counts unearned income for SSI-related medical programs as follows:

(1) The total amount of benefits to which a client is entitled is available unearned income even when the benefits are:

(a) Reduced through the withholding of a portion of the benefit amount to repay a legal obligation;

(b) Garnished to repay a debt, other legal obligation, or make any other payment such as payment of medicare premiums.

(2) Payments received on a loan:

(a) Interest paid on the loan amount is considered unearned income; and

(b) Payments on the loan principal are not considered income. However, any amounts retained on the first of the following month are considered a resource.

(3) Money borrowed by a person, which must be repaid, is not considered income. It is considered a loan. If the money received does not need to be repaid, it is considered a gift.

(4) Rental income received for the use of real or personal property, such as land, housing or machinery is considered unearned income. The countable portion of rental income received is the amount left after deducting necessary expenses of managing and maintaining the property paid in that month or carried over from a previous month. Necessary expenses are those such as:

(a) Advertising for tenants;

(b) Property taxes;

(c) Property insurance;

(d) Repairs and maintenance on the property; and

(e) Interest and escrow portions of a mortgage.

NOTE: When a client is in the business of renting properties and actively works the business (over twenty hours per week), the income is counted as earned income.

[11-24-018, recodified as WAC 182-512-0750, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-004, § 388-475-0750, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0800 SSI-related medical—General income exclusions. The department excludes, or does not consider, the following when determining a client's eligibility for SSI-related medical programs:

(1) The first twenty dollars per month of unearned income. If there is less than twenty dollars of unearned income in a month, the remainder is excluded from earned income in that month.

(a) The twenty-dollar limit is the same, whether applying it for a couple or for a single person.

(b) The disregard does not apply to income paid totally or partially by the federal government or a nongovernmental agency on the basis of an eligible person's needs.

(c) The twenty dollars disregard is applied after all exclusions have been taken from income.

(2) Income that is not reasonably anticipated or is received infrequently or irregularly, whether for a single person or each person in a couple when it is:

(a) Earned and does not exceed a total of thirty dollars per calendar quarter; or

(b) Unearned and does not exceed a total of sixty dollars per calendar quarter;

(c) Increases in a client's burial funds that were established on or after November 1, 1982 if the increases are the result of:

(i) Interest earned on excluded burial funds; or

(ii) Appreciation in the value of an excluded burial arrangement that was left to accumulate and become part of separately identified burial funds.

(3) Essential expenses necessary for a client to receive compensation (e.g., necessary legal fees in order to get a settlement);

(4) Receipts, which are not considered income, when they are for:

(a) Replacement or repair of an exempt resource;

(b) Prepayment or repayment of medical care paid by a health insurance policy or medical service program; or

(c) Payments made under a credit life or credit disability policy.

(5) The fee a guardian or representative payee charges as reimbursement for providing services, when such services are a requirement for the client to receive payment of the income.

(6) Funds representing shared household costs.

(7) Crime victim's compensation.

(8) The value of a common transportation ticket, given as a gift, that is used for transportation and not converted to cash.

(9) Gifts that are not for food, clothing or shelter, and gifts of home produce used for personal consumption.

(10) The department does not consider in-kind income received from someone other than a person legally responsible for the individual unless it is earned. Therefore, the following in-kind payments are not counted when determining eligibility for SSI-related medical programs.

(a) In-kind payments for services paid by a client's employer if:

(i) The service is not provided in the course of an employer's trade or business; or

(ii) It is in the form of food and/or shelter that is:

(A) On the employer's business premises;

(B) For the employer's convenience; and

(C) If shelter, acceptance by the employee is a condition of employment.

(b) In-kind payments made to people in the following categories:

(i) Agricultural employees;

(ii) Domestic employees;

(iii) Members of the uniformed services;

(iv) Persons who work from home to produce specific products for the employer from materials supplied by the employer.

[11-24-018, recodified as WAC 182-512-0800, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500, and Social Security Act as amended by P.L. 108-203. 06-04-046, § 388-475-0800, filed 1/26/06, effective 2/26/06. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-005, § 388-475-0800, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0820 SSI-related medical—Child-related income exclusions and allocations. (1) For the purposes of SSI-related medical eligibility determinations under chapter 388-475 WAC, a child is defined as an individual who is:

(a) Unmarried;

(b) Living in the household of the SSI-related applicant;

(c) The natural, adopted or stepchild of the SSI-related applicant or the applicant's spouse;

(d) Not receiving a needs-based cash payment such as TANF or SSI; and

(e) Is either:

(i) Age seventeen or younger; or

(ii) Age twenty-one or younger and meets the SSI-related definition of a student described in subsection (6) of this section.

(2) The department allows an allocation for the support of a child when determining the countable income of an SSI-related applicant. The allocation is calculated as follows:

(a) For categorically needy (CN) medical coverage, the allocation is deducted from the countable income of a nonapplying spouse before determining the amount of the nonapplying spouse's income to be deemed to the SSI-related applicant. Allocations to children are not deducted from the income of an unmarried SSI-related applicant.

(b) For medically needy (MN) medical coverage, the allocation is first deducted from the income of the nonapplying spouse as described in subsection (2)(a) of this section when the SSI-related applicant is married, and from the income of the applicant when the applicant is not married.

(3) The child's countable income, if any, is subtracted from the maximum child's allowance before determining the amount of allocation.

(4) Foster care payments received for a child who is not SSI-eligible and who is living in the household, placed there by a licensed, nonprofit or public child placement or child-care agency are excluded from income regardless of whether the person requesting or receiving SSI-related medical is the adult foster parent or the child who was placed.

(5) Adoption support payments, received by an adult for a child in the household that are designated for the child's needs, are excluded as income. Adoption support payments that are not specifically designated for the child's needs are not excluded and are considered unearned income to the adult.

(6) The department excludes the earned income of a person age twenty-one or younger if that person is a student. A student must meet one of the following criteria in order to allow the student earned income exclusion:

(a) Attend a school, college, or university a minimum of eight hours a week; or

(b) Pursue a vocational or technical training program designed to prepare the student for gainful employment a minimum of twelve hours per week; or

(c) Attend school or be home schooled in grades seven through twelve at least twelve hours per week.

(7) Any portion of a grant, scholarship, fellowship, or gift used for tuition, fees and/or other necessary educational expenses at any educational institution is excluded from income and not counted as a resource for nine months after the month of receipt.

(8) One-third of child support payments received for a child who is an applicant for SSI-related medical is excluded from the child's income. Child support payments that are subject to the one-third deduction may be voluntary or court-ordered payments for current support or arrears.

(9) The one-third deduction described in subsection (8) of this section does not apply to child support payments received from an absent parent for a child living in the home when the parent(s) or their spouse is the applicant for SSI-related medical. Voluntary or court-ordered payments for current support or arrears are always considered the income of the child for whom they are intended and not income to the parent(s).

(10) Gifts to, or for the benefit of, a person under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that code, is excluded as follows:

(a) In-kind gifts that are not converted to cash; or

(b) Cash gifts up to a total of two thousand dollars in a calendar year.

(11) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children are excluded from income. Any portion of a veteran's payment that is designed as the dependent's income is countable income to the dependent and not the applicant (assuming the applicant is not the dependent).

[11-24-018, recodified as WAC 182-512-0820, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500. 11-15-023, § 388-475-0820, filed 7/8/11, effective 8/8/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500, and Social Security Act as amended by P.L. 108-203. 06-04-046, § 388-475-0820, filed 1/26/06, effective 2/26/06. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-005, § 388-475-0820, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0840 SSI-related medical—Work- and agency-related income exclusions. The department excludes the following when determining eligibility for SSI-related medical programs:

(1) Work related expenses:

(a) That enable an SSI-related client to work;

(b) That allows a blind or disabled client to work and that are directly related to the person's impairment.

(2) First sixty-five dollars plus one-half of the remainder of earned income. This is considered a work allowance/incentive. This deduction does not apply to income already excluded.

(3) Any portion of self-employment income normally allowed as an income deduction by the Internal Revenue Service (IRS).

(11/29/11)

(4) Earned income of a person age twenty-one or younger if that person meets the definition of a student as defined in WAC 388-475-0820.

(5) Veteran's aid and attendance, housebound allowance, unusual/unreimbursed medical expenses (UME) paid by the VA to some disabled veterans, their spouses, widows or parents. For people receiving long-term care services, see chapter 388-513 WAC.

(6) Department of veterans affairs benefits designated for the veteran's dependent as long as the SSI-related applicant is not the dependent receiving the income. If an SSI-related applicant receives a dependent allowance based on the veteran's or veteran's survivor claim, the income is countable as long as it is not paid due to unusual medical expenses (UME).

(7) Payments provided in cash or in-kind, to an ineligible or nonapplying spouse, under any government program that provides social services provided to the client, such as chore services or attendant care.

(8) SSA refunds for medicare buy-in premiums paid by the client when the state also paid the premiums.

(9) Income that causes a client to lose SSI eligibility, due solely to reduction in the SSP.

(10) Tax rebates or special payments excluded under other statutes.

(11) Any public agency refund of taxes paid on real property or on food.

[11-24-018, recodified as WAC 182-512-0840, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500. 11-15-023, § 388-475-0840, filed 7/8/11, effective 8/8/11. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-005, § 388-475-0840, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0860 SSI-related medical—Income exclusions under federal statute or other state laws. The Social Security Act and other federal statutes or state laws list income that the department excludes when determining eligibility for SSI-related medical programs. These exclusions include, but are not limited to:

(1) Income tax refunds;

(2) Federal earned income tax credit (EITC) payments for twelve months after the month of receipt;

(3) Compensation provided to volunteers in the Corporation for National and Community Service (CNCS), formerly known as ACTION programs established by the Domestic Volunteer Service Act of 1973. P.L. 93-113;

(4) Assistance to a person (other than wages or salaries) under the Older Americans Act of 1965, as amended by section 102 (h)(1) of Pub. L. 95-478 (92 Stat. 1515, 42 U.S.C. 3020a);

(5) Federal, state and local government payments including assistance provided in cash or in-kind under any government program that provides medical or social services;

(6) Certain cash or in-kind payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(7) Value of food provided through a federal or nonprofit food program such as WIC, donated food program, school lunch program;

- (8) Assistance based on need, including:
- (a) Any federal SSI income or state supplement payment (SSP) based on financial need;
 - (b) Food stamps;
 - (c) GA-U;
 - (d) CEAP;
 - (e) TANF; and
 - (f) Bureau of Indian Affairs (BIA) general assistance.
- (9) Housing assistance from a federal program such as HUD if paid under:
- (a) United States Housing Act of 1937 (section 1437 et seq. of 42 U.S.C.);
 - (b) National Housing Act (section 1701 et seq. of 12 U.S.C.);
 - (c) Section 101 of the Housing and Urban Development Act of 1965 (section 1701s of 12 U.S.C., section 1451 of 42 U.S.C.);
 - (d) Title V of the Housing Act of 1949 (section 1471 et seq. of 42 U.S.C.); or
 - (e) Section 202(h) of the Housing Act of 1959;
 - (f) Weatherization provided to low-income homeowners by programs that consider income in the eligibility determinations;
- (10) Energy assistance payments including:
- (a) Those to prevent fuel cutoffs, and
 - (b) To promote energy efficiency.
- (11) Income from employment and training programs as specified in WAC 388-450-0045.
- (12) Foster grandparents program;
- (13) Title IV-E and state foster care maintenance payments if the foster child is not included in the assistance unit;
- (14) The value of any childcare provided or arranged (or any payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act, as amended by section 8(b) of P.L. 102-586 (106 Stat. 5035).
- (15) Educational assistance as specified in WAC 388-450-0035.
- (16) Up to two thousand dollars per year derived from an individual's interest in Indian trust or restricted land.
- (17) Native American benefits and payments as specified in WAC 388-450-0040 and other Native American payments excluded by federal statute. For a complete list of these payments, see 20 CFR 416, Subpart K, Appendix, IV.
- (18) Payments from *Susan Walker v. Bayer Corporation, et al.*, 96-c-5024 (N.D. Ill) (May 8, 1997) settlement funds;
- (19) Payments from Ricky Ray Hemophilia Relief Fund Act of 1998, P.L. 105-369;
- (20) Disaster assistance paid under Federal Disaster Relief P.L. 100-387 and Emergency Assistance Act, P.L. 93-288 amended by P.L. 100-707 and for farmers P.L. 100-387;
- (21) Payments to certain survivors of the Holocaust as victims of Nazi persecution; payments excluded pursuant to section 1(a) of the Victims of Nazi Persecution Act of 1994, P.L. 103-286 (108 Stat. 1450);
- (22) Payments made under section 500 through 506 of the Austrian General Social Insurance Act;
- (23) Payments made under the Netherlands' Act on Benefits for Victims of Persecution (WUV);

(24) Restitution payments and interest earned to Japanese Americans or their survivors, and Aleuts interned during World War II, established by P.L. 100-383;

(25) Payments made from the Agent Orange Settlement Funds or any other funds to settle Agent Orange liability claims established by P.L. 101-201;

(26) Payments made under section six of the Radiation Exposure Compensation Act established by P.L. 101-426;

(27) Any interest or dividend is excluded as income, except for the community spouse of an institutionalized individual.

[11-24-018, recodified as WAC 182-512-0860, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, chapter 74.12 RCW, and The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. 11-21-025, § 388-475-0860, filed 10/11/11, effective 10/29/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500, and Social Security Act as amended by P.L. 108-203. 06-04-046, § 388-475-0860, filed 1/26/06, effective 2/26/06. Statutory Authority: RCW 74.04.050, 74.08.090. 04-09-005, § 388-475-0860, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0880 SSI-related medical—Special income disregards. Portions of your income the department otherwise counts are disregarded when determining eligibility for SSI-related medical programs.

(1) The department disregards the following for SSI-related medical programs:

(a) The cost of living adjustment(s) (COLA) for a client who:

(i) Is currently receiving a Social Security payment;

(ii) Was eligible for and received both SSA and SSI/State Supplement payments (SSP) in the same month for at least one month since April, 1977; and

(iii) Would continue to receive SSI/SSP payments but for the COLA increase(s) to their SSA benefits. This is commonly known as the adjustment for "Pickle people."

(b) Widow(er)'s benefits for a client who:

(i) Was entitled to SSA title II (widow/widower's) benefits in December 1983;

(ii) Was at least fifty years old, but not yet sixty at that time;

(iii) Received title II benefits and SSI in January 1984;

(iv) Would continue to be eligible for SSI/SSP payments if the title II benefits were disregarded; and

(v) Filed an application for medicaid with the state by July 1, 1988.

(c) Widow, Widower or Surviving Divorced Spouse (title II) benefits for a client who:

(i) Received SSI/SSP benefits the month prior to receipt of title II benefits;

(ii) Would continue to be eligible for SSI/SSP benefits if the title II benefits or the COLA(s) to those benefits were disregarded;

(iii) Is not eligible for medicare Part A. This client is considered an SSI recipient until becoming entitled to medicare Part A.

(2) A disabled adult child (DAC) who is ineligible for SSI/SSP solely due to receipt of either Social Security benefits as a disabled adult child of a person with a Social Security account or due to receipt of a COLA to the DAC benefits, may be income eligible for CN medical if disregarding the

SSA DAC benefits and COLA brings countable income below the CN standards, and the client:

- (a) Is eighteen years of age or older;
 - (b) Remains related to the SSI program through disability or blindness;
 - (c) Lost SSI eligibility on or after July 1, 1988 due solely to the receipt of DAC benefits from SSA or a COLA to those benefits; and
 - (d) Meets the other SSI-related CN medical requirements.
- (3) Clients who stop receiving an SSI cash payment due to earnings, but still meet all of the other SSI eligibility rules and have income below the higher limit established by the Social Security Act's Section 1619(b) are eligible for continued CN Medicaid.

(4) TANF income methodology is used to determine countable income for children and pregnant women applying for MN unless the SSI methodology would be more beneficial to the client. For cases using TANF methodology, follow the family medical rules and allow the:

- (a) Fifty percent earned income disregard;
- (b) Child care and dependent care expenses related to employment; and
- (c) Child support actually paid.

[11-24-018, recodified as WAC 182-512-0880, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.08.090, 04-09-005, § 388-475-0880, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0900 SSI-related medical—Deeming and allocation of income. The department considers income of financially responsible persons to determine if a portion of that income must be regarded as available to other household members.

(1) Deeming is the process of determining how much of another person's income is counted when determining eligibility of an SSI-related applicant. When income is deemed to the SSI-related applicant from other household members, that income is considered the applicant's income. Income is deemed only:

- (a) From a nonapplying spouse who lives with the SSI-related applicant; or
- (b) From a parent(s) residing with an SSI-related applicant child.

(2) An allocation is an amount deducted from income counted in the eligibility determination and considered to be set aside for the support of a person other than the SSI-related applicant. When income is allocated to other household members from the SSI-related applicant(s) or from the applicant's spouse, that income is not counted as income of the SSI applicant.

(3) An SSI-related person applying for categorically needy (CN) medical coverage must have countable income at or below the SSI categorically needy income level (CNIL) described in WAC 388-478-0080 unless the person is working and meets all requirements for the healthcare for workers with disabilities (HWD) program described in WAC 388-475-1000 through 388-475-1250.

(4) For institutional or home and community based waiver programs, use rules described in WAC 388-513-1315.

(11/29/11)

(5) The department follows rules described in WAC 388-475-0600 through 388-475-0880 to determine the countable income of an SSI-related applicant or SSI-related couple.

(6) If countable income of the applicant exceeds the one-person SSI CNIL prior to considering the income of a nonapplying spouse or children, the applicant is not eligible for CN medical coverage and the department determines eligibility for the medically needy (MN) program. If the countable income does not exceed the SSI CNIL, see WAC 388-475-0920 to determine if income is to be deemed to the applicant from the nonapplying spouse.

(7) If countable income (after allowable deductions) of an SSI-related couple both applying for medical coverage exceeds the two-person SSI CNIL, the couple is not eligible for CN medical coverage and the department determines eligibility for the medically needy (MN) program.

(8) For CN medical coverage, allocations to children are deducted from the nonapplying spouse's unearned income, then from their earned income before income is deemed to the SSI-related applicant. See WAC 388-475-0820.

(9) For MN medical coverage, allocations to children are deducted from the income of the SSI-related applicant or SSI-related applicant couple. See subsection (10) of this section to determine the amount of the allocation.

(10) An SSI-related individual or couple applying for MN medical coverage is allowed an allocation to a nonapplying spouse, their SSI recipient spouse or their dependent child(ren) to reduce countable income before comparing income to the medically needy income level (MNIL) described in WAC 388-478-0070. The department allocates income:

(a) Up to the one-person MNIL to a nonapplying spouse or SSI recipient spouse minus the spouse's countable income; and

(b) Up to one-half of the federal benefit rate (FBR) to each dependent minus each dependent's countable income. See WAC 388-475-0820 for child exclusions.

(11) A portion of a nonapplying spouse's income may be deemed to the SSI-related applicant:

(a) See WAC 388-475-0920(5) to determine how much income is deemed from a nonapplying spouse to the SSI-related applicant when determining CN eligibility; and

(b) See WAC 388-475-0920(10) to determine how much income is deemed from a nonapplying spouse to the SSI-related applicant when determining MN eligibility.

(12) A portion of the income of an ineligible parent or parents is allocated to the needs of an SSI-related applicant child. See WAC 388-475-0940 (4) through (7) to determine how much income is allocated from ineligible parent(s).

(13) Only income and resources actually contributed to an alien applicant from their sponsor are counted as income. For allocation of income from an alien sponsor, refer to WAC 388-450-0155.

[11-24-018, recodified as WAC 182-512-0900, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500, 11-15-023, § 388-475-0900, filed 7/8/11, effective 8/8/11. Statutory Authority: RCW 74.04.050, 74.08.090, 04-09-005, § 388-475-0900, filed 4/7/04, effective 6/1/04.]

WAC 182-512-0920 SSI-related medical—Deeming/ allocation of income from nonapplying spouse. The

department considers the income of financially responsible persons to determine if a portion of that income is available to other household members.

(1) A portion of the income of a nonapplying spouse is considered available to meet the needs of an SSI-related applicant. A nonapplying spouse is defined as someone who is:

(a) Financially responsible for the SSI-related applicant as described in WAC 388-408-0055 and 388-475-0960. For institutional and home and community based waiver programs, see WAC 388-513-1315;

(b) Living in the same household with the SSI-related applicant;

(c) Not receiving a needs based payment such as temporary assistance to needy families (TANF), state funded cash assistance (SFA); or

(d) Not related to SSI, or is not applying for medical assistance including spouses receiving SSI.

(2) An ineligible spouse is the spouse of an SSI cash recipient and is either not eligible for SSI for themselves or who has elected to not receive SSI cash so that their spouse may be eligible. An SSI-related applicant who is the ineligible spouse of an SSI cash recipient is not eligible for categorically needy (CN) medical coverage and must be considered for medical coverage under the medically needy (MN) program.

(3) When determining whether a nonapplying spouse's income is countable, the department:

(a) Follows the income rules described in WAC 388-475-0600 through 388-475-0750;

(b) Excludes income described in WAC 388-475-0800 (2) through (11), and all income excluded under federal statute or state law as described in WAC 388-475-0860.

(c) Excludes work-related expenses described in WAC 388-475-0840, with the exception that the sixty-five dollars plus one half earned income deduction described in WAC 388-475-0840(2) does not apply;

(d) Deducts any court ordered child support which the nonapplying spouse pays for a child outside of the home (current support or arrears); and

(e) Deducts any applicable child-related income exclusions described in WAC 388-475-0820.

(4) The department allocates income of the nonapplying spouse to nonapplying children who reside in the home as described in WAC 388-475-0820. Allocations to children are deducted first from the nonapplying spouse's unearned income, then from their earned income.

(a) For CN medical determinations, allocations to children are not allowed out of the income of the SSI-related applicant, only from the income of the nonapplying spouse.

(b) For MN medical determinations, allocations to children are allowed from the income of the SSI-related applicant if the applicant is unmarried.

(5) For SSI-related CN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:

(a) Less than or equal to one-half of the federal benefit rate (FBR), no income is deemed to the applicant. Compare the applicant's countable income to the one-person SSI cate-

gorically needy income level (CNIL) described in WAC 388-470-0040. For healthcare for workers with disabilities (HWD) applicants, compare to the one-person HWD standard described in WAC 388-478-0075 (1)(c).

(b) Greater than one-half of the FBR, then the entire nonapplying spouse's countable income is deemed to the applicant. Compare the applicant's income to the two-person SSI CNIL. For HWD applicants, compare to the two-person HWD standard described in WAC 388-478-0075 (1)(c).

(6) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(a):

(a) Allow all allowable income deductions and exclusions as described in chapter 388-475 WAC to the SSI-related applicant's income; and

(b) Compare the net remaining income to the one-person SSI CNIL or the one-person HWD standard.

(7) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(b) of this section:

(a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one twenty dollar general income exclusion to the combined amount.

(b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the sixty-five dollar plus one half of the remainder earned income deduction (described in WAC 388-475-0840(2)) to the combined amount.

(c) Add together the net unearned and net earned income amounts and compare the total to the two-person SSI CNIL or the two-person HWD standard described in WAC 388-478-0075 (1)(c). If the income is equal to or below the applicable two-person standard, the applicant is eligible for CN medical coverage.

(8) An SSI-related applicant under the age of sixty-five who is working at or below the substantial gainful activity (SGA) level but who is not eligible for CN coverage under the regular SSI-related program, may be considered for eligibility under the MN program or under the HWD program. The SGA level is determined annually by the Social Security Administration and is posted at: <https://secure.ssa.gov/apps10/poms.nsf/lx/0410501015>.

(9) If the SSI-related applicant's countable income is above the applicable SSI CNIL standard, the department considers eligibility under the MN program or under the HWD program if the individual is under the age of sixty-five and working. An SSI-related applicant who meets the following criteria is not eligible for MN coverage and eligibility must be determined under HWD:

(a) A blind or disabled individual who is under the age of sixty-five;

(b) Who has earned income over the SGA level; and

(c) Is not receiving a Title II Social Security cash benefit based on blindness or disability.

(10) For SSI-related MN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:

(a) Less than or equal to the one person MNIL described in WAC 388-478-0070, no income is deemed to the applicant and a portion of the applicant's countable income is allocated to the nonapplying spouse's income to raise it to the MNIL.

(b) Greater than the MNIL, then the amount in excess of the one-person MNIL is deemed to the applicant. Compare the applicant's income to the one-person MNIL.

(11) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (10)(a) of this section:

(a) Allocate income from the applicant to bring the income of the nonapplying spouse up to the one-person MNIL standard;

(b) Allow all allowable income deductions and exclusions as described in chapter 388-475 WAC to the SSI-related applicant's remaining income;

(c) Allow a deduction for medical insurance premium expenses (if applicable); and

(d) Compare the net countable income to the one-person MNIL.

(12) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (10)(b) of this section:

(a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one twenty dollar general income exclusion to the combined amount;

(b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the sixty-five dollar plus one half of the remainder earned income deduction (described in WAC 388-475-0840(2)) to the combined amount;

(c) Add together the net unearned and net earned income amounts;

(d) Allow a deduction for medical insurance premium expenses (if applicable) per WAC 388-519-0100(5); and

(e) Compare the net countable income to the one-person MNIL described in WAC 388-478-0070. If the income is:

(i) Equal to or below the one-person MNIL, the applicant is eligible for MN medical coverage with no spenddown.

(ii) Greater than the MNIL, the applicant is only eligible for MN medical coverage after meeting a spenddown liability as described in WAC 388-519-0110.

(13) The ineligible spouse of an SSI-cash recipient applying for MN coverage is eligible to receive the deductions and allocations described in subsection (10)(a) of this section.

[11-24-018, recodified as WAC 182-512-0920, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500. 11-15-023, § 388-475-0920, filed 7/8/11, effective 8/8/11.]

WAC 182-512-0940 SSI-related medical—Deeming income from an ineligible parent(s) to a child applying for SSI-related medical. The department considers income of financially responsible persons to determine if a portion of that income must be regarded as available to other household members.

(1) A portion of the income of a parent(s) is considered available to the SSI-related applicant child when the child is age seventeen or younger and the parent(s) is:

(a) Financially responsible for the SSI-related child as described in WAC 388-408-0055(2);

(b) The natural, adoptive, or step-parent of the child;

(c) Living in the same household with the child;

(d) Not receiving a needs-based payment such as TANF, SFA or SSI; and

(e) Not related to SSI or not applying for medical assistance.

(2) If an SSI-related applicant between the ages of eighteen to twenty-one lives with their parents, only consider the parent's income available to the applicant if it is actually contributed to the applicant. If income is not contributed, count only the applicant's own separate income.

(3) Income that is deemed to the child is considered as that child's income.

(4) When determining whether a parent's income is countable, the department follows:

(a) The income rules described in WAC 388-475-0600 through 388-475-0750; and

(b) Excludes income described in WAC 388-475-0800 and 388-475-0840, and all income excluded under a federal statute or state law as described in WAC 388-475-0860.

(5) When determining the amount of income to be deemed from a parent(s) to an SSI-related minor child for categorically needy (CN) and medically needy (MN) coverage, the department reduces the parent(s) countable income in the following order:

(a) Court ordered child support paid out for a child not in the home;

(b) An amount equal to one half of the federal benefit rate (FBR) for each SSI-eligible sibling living in the household, minus any countable income of that child. See WAC 388-478-0055 for FBR amount;

(c) A twenty dollar general income exclusion;

(d) A deduction equal to sixty-five dollars plus one-half of the remainder from any remaining earned income of the parent(s);

(e) An amount equal to the one-person SSI CNIL for a single parent or the two-person SSI CNIL for a two parent household;

(f) Any income remaining after these deductions is considered countable income to the SSI-related child and is added to the child's own income. If there is more than one child applying for SSI-related medical coverage, the deemed parental income is divided equally between the applicant children; and

(g) The deductions described in this section are deducted first from unearned income then from earned income unless they are specific to earned income.

(6) The SSI-related applicant child is also allowed all applicable income exclusions and disregards described in chapter 388-475 WAC from their own income. After determining the child's nonexcluded income, the department:

(a) Allows the twenty dollar general income exclusion from any unearned income;

(b) Deducts sixty-five dollars plus one half of the remainder from any earned income which has not already been excluded under the student earned income exclusion (see WAC 388-475-0820).

(c) Adds the child's countable income to the amount deemed from their parent(s). If the combination of the child's

countable income plus deemed parental income is equal to or less than the SSI CNIL, the child is eligible for SSI-related CN medical coverage.

(7) If the combination of the child's countable income plus deemed parental income is greater than the SSI CNIL, the department considers the child for SSI-related medically needy (MN) coverage. Any amount exceeding the medically needy income level (MNIL) is used to calculate the amount of the child's spenddown liability as described in WAC 388-519-0110. See WAC 388-478-0070 for the current MNIL standards.

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WAC 182-512-0960 SSI-related medical—Allocating income—How the department considers income and resources when determining eligibility for an individual applying for noninstitutional medicaid when another household member is receiving institutional medicaid. (1) The department follows rules described in WAC 388-513-1315 for an individual residing in a medical institution, approved for a home and community based waiver, or approved for the institutional hospice program. The rules in this section describe how the department considers household income and resources when the household contains both institutional and noninstitutionalized household members.

(2) An institutionalized individual (adult or child) who is not SSI-related may be considered under the long-term care for families and children programs described in WAC 388-505-0230 through 388-505-0265.

(3) The department considers the income and resources of spouses as available to each other through the end of the month in which the spouses stopped living together. See WAC 388-513-1330 and 388-513-1350 when a spouse is institutionalized.

(4) The department considers income and resources separately as of the first day of the month following the month of separation when spouses stop living together because of placement into a boarding home (assisted living, enhanced adult residential center, adult residential center), adult family home (AFH), adult residential rehabilitation center/adult residential treatment facility (ARRC/ARTF), or division of developmental disabilities-group home (DDD-GH) facility when:

(a) Only one spouse enters the facility;
 (b) Both spouses enter the same facility but have separate rooms; or

(c) Both spouses enter separate facilities.

(5) The department considers income and resources jointly when both spouses are placed in a boarding home, AFH, ARRC/ARTF, or DDD-GH facility and share a room.

(6) When determining SSI-related categorically needy (CN) or medically needy (MN) eligibility for a community spouse applying for medical coverage, the department counts:

(a) The separate income of the community spouse; plus
 (b) One half of any community income received by the community spouse and the institutionalized spouse; plus
 (c) Any amount allocated to the community spouse from the institutionalized spouse. The terms "community spouse"

and "institutional spouse" are defined in WAC 388-513-1301.

(7) For the purposes of determining the countable income of a community spouse applying for medical coverage as described in subsection (6) above, it does not matter whether the spouses reside together or not. Income that is allocated and actually available to a community spouse is considered that person's income.

(8) For the purposes of determining the countable income of a community spouse or children applying for medical coverage under family, pregnancy or children's medical programs, the department uses the following rules to determine if the income of the institutionalized person is considered in the eligibility calculation:

(a) When the institutionalized spouse or parent lives in the same home with the community spouse and/or children, their income is counted in the determination of household income following the rules for the medical program that is being considered.

(b) When the institutionalized spouse or parent does not live in the same home as the spouse and/or children, only income that is allocated and available to the household is counted.

(9) When determining the countable income of a community spouse applying for medical coverage under the MN program, the department allocates income from the community spouse to the institutionalized spouse in an amount up to the one-person medically needy income level (MNIL) less the institutionalized spouse's income, when:

(a) The community spouse is living in the same household as the institutionalized spouse; and

(b) The institutionalized spouse is receiving home and community-based waiver or institutional hospice services described in WAC 388-515-1505; and

(c) The institutionalized spouse has gross income of less than the MNIL.

(10) See WAC 388-408-0055 for rules on how to determine medical assistance units for households that include SSI-related persons. A separate medical assistance unit is always established for individuals who meet institutional status described in WAC 388-513-1320.

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