

WSR 23-22-015
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 19, 2023, 11:51 a.m., effective October 26, 2023]

Effective Date of Rule: October 26, 2023.

Purpose: The department is extending emergency amendments to WAC 388-474-0012 What is a state supplemental payment and who can get it? and 388-478-0055 How much do I get from my state supplemental payments (SSP)? These amendments update the SSP standard rate for individuals who are receiving care in a medical institution or residential setting. This rate is based off the Washington state institutional personal needs allowance (PNA) standard which increased due to the passage of HB 1128 (chapter 201, Laws of 2023), effective July 1, 2023.

Citation of Rules Affected by this Order: Amending WAC 388-474-0012 and 388-478-0055.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and 74.08A.250.

Other Authority: HB 1128 (chapter 201, Laws of 2023).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These amendments, which are currently in place via emergency rule-making order filed as WSR 23-14-065, update the SSP standard rate for individuals who are receiving care in a medical institution or residential setting. This rate is based off the Washington state institutional PNA standard which increased due to the passage of HB 1128 (chapter 201, Laws of 2023), effective July 1, 2023. The department is actively undertaking procedures to permanently adopt these amendments. Refer to CR-101 filed as WSR 23-14-068 on June 28, 2023, and CR-102 filed as WSR 23-17-121 on August 18, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: October 17, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4987.2

AMENDATORY SECTION (Amending WSR 15-16-022, filed 7/24/15, effective 8/24/15)

WAC 388-474-0012 What is a state supplemental payment and who can get it? (1) The state supplemental payment (SSP) is a state-funded cash assistance program for certain clients who the Social Security Administration determines are eligible for supplemental security income (SSI).

(2) You can get an SSP if:

(a) You are a grandfathered SSI recipient under WAC 388-474-0001;

(b) You are an individual with an ineligible spouse under WAC 388-474-0001;

(c) You receive SSI because you are age ~~((sixty-five))~~ 65 or older under WAC 388-474-0001;

(d) You receive SSI because you are blind under WAC 388-474-0001;

(e) You receive SSI because you are disabled under WAC 388-474-0001;

(f) You are determined eligible for SSP by the developmental disabilities administration; ~~((or))~~

~~((or))~~ (g) You are eligible for and receive SSI as a foster child receiving specific services through children's administration behavior rehabilitation services (BRS) for part or all of a month, and not eligible for foster care reimbursement under Title IV-E of the Social Security Act ~~((or))~~; or

(h) You are an SSI recipient residing in a medical institution and your SSI has been reduced based on the institutional SSI payment standard.

AMENDATORY SECTION (Amending WSR 20-23-053, filed 11/13/20, effective 1/1/21)

WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? (1) The SSP is a ~~((payment from the state))~~ state-funded cash assistance program issued to certain individuals who the Social Security Administration (SSA) determines are eligible for supplemental security income (SSI) ~~((eligible people))~~ as described in WAC 388-474-0012.

~~(2) ((If you converted to the federal SSI program from state assistance in January 1974 because you were aged, blind, or disabled, and have remained continuously eligible for SSI since January 1974, the department calls you a grandfathered client. Social Security calls you a minimum income level (MIL) client.~~

~~A change in living situation, cost-of-living adjustment (COLA), or federal benefit rate (FBR) can affect a grandfathered MIL client. A grandfathered MIL client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:~~

~~(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal COLA since then; or~~

~~(b) The current payment standard.~~

~~(3) The monthly) Monthly~~ SSP rate standards for eligible persons ~~((under)) as described in WAC 388-474-0012 ((and individuals residing in an institution)) are:~~

((SSP-eligible persons	Standard
Individual (aged 65 and older)	\$38.25
Individual (blind as determined by SSA)	\$38.25
Individual with an ineligible spouse	\$38.25
Grandfathered (MIL)	Varies by individual based on federal requirements. Payments range between \$0.54 and \$199.77.)

((Medical institution Individual	Monthly SSP Rate \$40.00))
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(a) \$38.25 for:

- (i) Individuals with an ineligible spouse;
- (ii) Aged 65 and older;
- (iii) Blind as determined by SSA; or
- (iv) Disabled as determined by SSA.

(b) Between \$0.54 and \$199.77 for grandfathered clients as defined in 388-474-0001 and varies by individual based on federal requirements.

(c) \$70.00 for individuals residing in a medical institution. It is based on increasing the federal SSI personal needs allowance (PNA) of \$30.00 up to the current Washington state institutional PNA standard described in subsection (5) of WAC 182-513-1105. The current state PNA standard for institutional apple health is located at <https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.

(3) A change in living situation, cost-of-living adjustment (COLA), or federal benefit rate (FBR) can affect a grandfathered client. A grandfathered client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal COLA since then; or

(b) The current payment standard.

(4) ((We may adjust the)) SSP rate standards may be adjusted at the end of the calendar year to comply with WAC 388-478-0057.

~~((5) The medical institution SSP rate is based on increasing the federal SSI personal needs allowance (PNA) up to the current Washington state institutional PNA standard described in WAC 182-513-1105. The state rate may be adjusted by the percentage of the cost-of-living adjustment (COLA) for old-age, survivors and disability social security recipients as published by the federal social security administration. This adjustment is subject to state legislative funding. The current PNA rule used in institutional apple health is located at <https://www.hca.wa.gov/health-care-services-supports/program-standard-income-and-resources>.)~~