

# Chapter 182-509 WAC

## INCOME AND RESOURCES

### WAC

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**WAC 182-509-0001 Countable income for Washington apple health programs.** (1) For purposes of Washington apple health (WAH) program eligibility, a person's countable income is income which remains when:

- (a) The income cannot be specifically excluded; and
- (b) All appropriate deductions and disregards allowed by a specific program have been applied.

(2) A person's countable income may not exceed the income standard for the specific WAH program, unless the program allows for those limits to be exceeded. Specific program standards are described below:

(a) For modified adjusted gross income (MAGI)-based programs described in WAC 182-503-0510, see WAC 182-505-0100 for the applicable program standard based on a percentage of the federal poverty level (FPL);

(b) For WAH SSI-related CN coverage, see WAC 182-512-0010;

(c) For WAH MN coverage, see WAC 182-519-0050;

(d) For WAH for workers with disabilities, see WAC 182-511-1060;

(e) For WAH medicare savings programs, see WAC 182-517-0100;

(f) For WAH noninstitutional medical in an alternative living facility, see WAC 182-513-1305; and

(g) For WAH long-term care programs, see WAC 182-513-1315 and 182-513-1395.

(3) For the MAGI-based programs listed below, the agency or its designee determines eligibility based on the countable MAGI income of the members of the person's medical assistance unit as determined per WAC 182-506-0010:

(a) WAH for parents and caretaker relatives program as described in WAC 182-505-0240;

(b) WAH pregnancy program as described in WAC 182-505-0115;

(c) WAH for kids programs as described in WAC 182-505-0210 with the following exceptions:

(i) Newborn children born to a woman who is eligible for WAH on the date of the newborn's birth, including a retroactive eligibility determination;

(ii) Children who are receiving SSI;

(iii) Children who are in foster care or receiving subsidized adoption services.

(d) WAH MAGI-based adult medical as described in WAC 182-505-0250; and

(e) WAH MAGI-based alien emergency medical as described in WAC 182-507-0110.

(4) For the following SSI-related WAH programs, unless the state has adopted more liberal rules, income rules for the SSI program are used to determine a person's countable income:

(a) WAH noninstitutional SSI-related CN or medically needy (MN) coverage described in chapters 182-511 and 182-512 WAC;

(b) WAH institutional SSI-related CN or MN long-term care or hospice coverage described in chapters 182-513 and 182-515 WAC;

(c) WAH alien emergency medical programs based on age sixty-five or older or disability described in chapter 182-507 WAC; and

(d) WAH medicare savings programs described in chapter 182-517 WAC.

(5) Anticipated nonrecurring lump sum payments received by an applicant or recipient of a WAH SSI-related

medical program are counted as income in the month of receipt, subject to reporting requirements, with the exception of retroactive supplemental security income (SSI)/Social Security disability lump sum payments. See WAC 182-512-0300(4) and 182-512-0700 for more information.

(6) Countable income for the WAH refugee medical (RMA) program and WAH MN program for pregnant women and children is determined as follows:

(a) The agency or its designee allows the following deductions from a person's gross earnings:

- (i) Fifty percent of gross earned income;
- (ii) Actual work-related child and dependent care expenses, which are the person's responsibility; and
- (iii) Court or administratively ordered current or back support paid to meet the needs of legal dependents.

(b) Only income actually contributed to an alien client from the alien's sponsor is countable unless the sponsor signs the affidavit of support I-864 or I-864A.

(c) Nonrecurring lump sum payments are counted as income in the month of receipt and as a resource if the person retains the payment after the month of receipt (resource limits do not apply to MN coverage for pregnant women and children). For RMA, nonrecurring lump sum payments are counted as income if received in the month of application and not considered if received thereafter per WAC 182-507-0130.

(7) Countable income rules for other WAH programs that are not MAGI-based or SSI-related are described in the specific program rules listed in WAC 182-503-0510 (3)(c).

(8) Some WAH programs are not based on a person's or household's countable income but are based on a specific status or entitlement in federal rule. The rules for these deemed eligible WAH programs are described in WAC 182-503-0510(4).

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0001, filed 12/9/13, effective 1/9/14. WSR 11-23-091, recodified as WAC 182-509-0001, filed 11/17/11, effective 11/21/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, 74.09.700, and 2007 c 5. WSR 08-05-018, § 388-450-0210, filed 2/12/08, effective 3/14/08. Statutory Authority: RCW 74.08.090, 74.09.530, and 74.09.415. WSR 05-23-013, § 388-450-0210, filed 11/4/05, effective 1/1/06. Statutory Authority: RCW 74.08.090, 74.08A.100, 74.09.080, and 74.09.415. WSR 02-17-030, § 388-450-0210, filed 8/12/02, effective 9/12/02. Statutory Authority: RCW 74.08.090, 74.08A.100, and Title XIX State Plan amendment 00-008. WSR 02-03-009, § 388-450-0210, filed 1/4/02, effective 2/4/02. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0210, filed 7/31/98, effective 9/1/98. Formerly WAC 388-505-0580, 388-505-0590 and 388-519-1910.]

**WAC 182-509-0005 MCS income—Ownership and availability.** This section applies to medical care services (MCS) program.

(1) The agency or the agency's designee counts all available income owned or held by persons in the assistance unit under WAC 182-506-0020 to decide if the individual is eligible for benefits when:

(a) The individual gets or expects to get income in the month.

(b) The agency or the agency's designee must count the income based on rules under this chapter.

(c) The individual owns the income. The agency or the agency's designee uses state and federal laws about who owns property to decide if the individual actually owns the income. If the individual is married, the agency or the agency's designee decides if the income is separate or community income according to chapter 26.16 RCW.

(d) The individual has control over the income, which means the income is actually available to the individual. If the individual has a representative payee, protective payee, or other person who manages the individual's income, the agency or the agency's designee considers this as the individual having control over this income.

(e) The individual can use the income to meet their current needs. The agency or the agency's designee counts the gross amount of available income in the month the individual's assistance unit gets it. If the individual normally gets the income:

(i) On a specific day, the agency or the agency's designee counts it as available on that date.

(ii) Monthly or twice monthly and the pay date changes due to a reason beyond the individual's control, such as a weekend or holiday, the agency or the agency's designee counts it in the month the individual would normally get it.

(iii) Weekly or every other week and the pay date changes due to a reason beyond the individual's control, the agency or the agency's designee counts it in the month the individual would normally get it.

(2) If income is legally the individual's designee, the agency or the agency's designee considers the income as available to the individual even if it is paid to someone else for the individual.

(3) The agency or the agency's designee:

(a) May count the income of certain people who live in the individual's home, even if they are not getting or applying for benefits. Their income counts as part of the individual's income.

(b) Counts the income of ineligible, disqualified, or financially responsible people as defined in WAC 182-509-0100.

(4) If the individual has a joint bank account with someone who is not in the individual's assistance unit (AU), the agency or the agency's designee counts any money deposited into that account as the individual's income unless:

(a) The individual can show that all or part of the funds belong **only** to the other account holder and are held or used **only** for the benefit of that holder; or

(b) Social Security Administration (SSA) used that money to determine the other account holder's eligibility for SSI benefits.

(5) Potential income is income the individual may be able to get that can be used to lower their need for assistance. If the agency or the agency's designee determines that the individual has a potential source of income, the individual must make a reasonable effort to make the income available in order to get MCS. The agency or the agency's designee does not count that income until the individual actually gets it.

(6) If the individual's AU includes a sponsored immigrant, the agency or the agency's designee considers the income of the immigrant's sponsor as available to the immigrant under the rules of this chapter. The agency or the

agency's designee uses this income when deciding if the individual's AU is eligible for benefits and to calculate the individual's monthly benefits.

(7) The individual may give the agency or the agency's designee proof about a type of income at anytime, including when the agency or the agency's designee asks for it or if the individual disagrees with a decision the agency or the agency's designee made, about:

- (a) Who owns the income;
- (b) Who has legal control of the income;
- (c) The amount of the income; or
- (d) If the income is available.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0005, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0015 MCS income—Excluded income types.** There are some types of income that do not count when determining if an individual is eligible for medical care services (MCS) coverage. Examples of income that do not count are:

- (1) Bona fide loans as defined in WAC 182-509-0205, except certain student loans as specified under WAC 182-509-0035;
- (2) Federal earned income tax refunds and earned income tax credit (EITC) payments for up to twelve months from the date of receipt;
- (3) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;
- (4) Federal twenty-five dollar supplemental weekly unemployment compensation payment authorized by the American Recovery and Reinvestment Act of 2009;
- (5) Title IV-E and state foster care maintenance payments if the individual chooses not to include the foster child in the assistance unit;
- (6) Energy assistance payments;
- (7) Educational assistance that is not counted under WAC 182-509-0035;
- (8) Native American benefits and payments that are not counted under WAC 388-450-0040;
- (9) Income from employment and training programs that is not counted under WAC 182-509-0045;
- (10) Money withheld from a benefit to repay an overpayment from the same income source;
- (11) One-time payments issued under the Department of State or Department of Justice Reception and Replacement Programs, such as voluntary agency (VOLAG) payments;
- (12) Payments we are directly told to exclude as income under state or federal law; and
- (13) Payments made to someone outside of the household for the benefits of the assistance unit using funds that are not owed to the household.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0015, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0025 MCS income—Unearned income.** This section applies to medical care services (MCS).

- (1) Unearned income is income an individual gets from a source other than employment or self-employment. Some examples of unearned income are:
  - (a) Railroad retirement;
  - (b) Unemployment compensation;

- (c) Social Security benefits (including retirement benefits, disability benefits, and benefits for survivors);

- (d) Time loss benefits as described in WAC 388-450-0010, such as benefits from the department of labor and industries (L&I); or

- (e) Veteran Administration benefits.

- (2) The agency or the agency's designee counts unearned income before any taxes are taken out.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0025, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0030 MCS income—Earned income.**

This section applies to medical care services (MCS).

- (1) Earned income money received from working. This includes:

- (a) Wages;
- (b) Tips;
- (c) Commissions;
- (d) Profits from self-employment activities as described in WAC 182-509-0080; and
- (e) One-time payments for work performed over a period of time.

- (2) Income received for work performed for something other than money, such as rent, is considered earned income. The amount that is counted when determining the individual's eligibility for MCS is the amount received before any taxes are taken out (gross income).

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0030, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0035 MCS income—Educational benefits.** This section applies to medical care services (MCS).

- (1) Educational benefits that do not count are:

- (a) Educational assistance in the form of grants, loans or work study, issued from Title IV of the Higher Education Amendments (Title IV - HEA) and Bureau of Indian Affairs (BIA) education assistance programs. Examples of Title IV - HEA and BIA educational assistance include, but are not limited to:

- (i) College work study (federal and state);
- (ii) Pell grants; and
- (iii) BIA higher education grants.

- (b) Educational assistance in the form of grants, loans or work study made available under any program administered by the Department of Education (DOE) to an undergraduate student. Examples of programs administered by DOE include, but are not limited to:

- (i) Christa McAuliffe Fellowship Program;
- (ii) Jacob K. Javits Fellowship Program; and
- (iii) Library Career Training Program.

- (2) For assistance in the form of grants, loans or work study under the Carl D. Perkins Vocational and Applied Technology Education Act, P.L. 101-391:

- (a) If the individual is attending school half time or more, the following expenses are subtracted:

- (i) Tuition;
- (ii) Fees;
- (iii) Costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study;
- (iv) Books;

- (v) Supplies;
- (vi) Transportation;
- (vii) Dependent care; and
- (viii) Miscellaneous personal expenses.

(b) If the individual is attending school less than half time, the following expenses are subtracted:

- (i) Tuition;
- (ii) Fees; and

(iii) Costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study.

(c) The MCS eligibility standard based on one person is also subtracted.

(d) Any remaining income is unearned income and budgeted using the appropriate budgeting method for the assistance unit.

(3) If the individual is participating in a work study that is not excluded in subsection (1) of this section, that work study income is counted as earned income under the following conditions:

(a) The individual is allowed the earned income work incentive deduction described in WAC 182-509-0175; and

(b) The remaining income is budgeted using the appropriate budgeting method for the assistance unit.

(4) If the individual receives Veteran's Administration Educational Assistance:

(a) All applicable attendance costs are subtracted; and

(b) The remaining unearned income is budgeted using the appropriate budgeting method for the assistance unit.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0035, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0045 MCS income—Employment and training programs.** This section applies to medical care services (MCS).

(1) All payments issued under the Workforce Investment Act (WIA) are excluded.

(2) All payments issued under the National and Community Service Trust Act of 1993 are excluded. This includes payments made through the AmeriCorps program.

(3) All payments issued under Title I of the Domestic Volunteer Act of 1973, such as VISTA, AmeriCorps Vista, university year for action, and urban crime prevention program are excluded.

(4) All payments issued under Title II of the Domestic Volunteer Act of 1973 are excluded. These include:

- (a) Retired senior volunteer program (RSVP);
- (b) Foster grandparents program; and
- (c) Senior companion program.

(5) Training allowances from vocational and rehabilitative programs are counted as earned income when:

(a) The program is recognized by federal, state, or local governments; and

(b) The allowance is not a reimbursement.

(6) When an MCS client receives training allowances, the following is allowed:

(a) The earned income incentive and work expense deduction specified under WAC 182-509-0175, when applicable; and

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(b) The actual cost of uniforms or special clothing required for the course as a deduction, if enrolled in a remedial education or vocational training course.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0045, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0055 MCS income—Needs-based assistance from other agencies or organizations.** (1)

Needs-based assistance given to the individual by other agencies or organizations is not counted if the assistance is given for reasons other than ongoing living expenses which do not duplicate the purpose of DSHS cash assistance programs. Ongoing living expenses include the following items:

(a) Clothing;

(b) Food;

(c) Household supplies;

(d) Medical supplies (nonprescription);

(e) Personal care items;

(f) Shelter;

(g) Transportation; and

(h) Utilities (e.g., lights, cooking fuel, the cost of heating or heating fuel).

(2) "Needs-based" means eligibility is based on an asset test of income and resources relative to the federal poverty level (FPL). This definition excludes such incomes as retirement benefits or unemployment compensation which are not needs-based.

(3) If the needs-based assistance is countable, it is treated as unearned income under WAC 182-509-0025.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0055, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0065 MCS income—Gifts—Cash and noncash.** This section applies to medical care services. A gift is an item furnished to an individual without work or cost on the individual's part.

(1) A cash gift is a gift that is furnished as money, cash, checks or any other readily negotiable form. Cash gifts totaling no more than thirty dollars per calendar quarter for each assistance unit member are disregarded as income.

(2) A noncash gift is treated as a resource.

(a) If the gift is a countable resource, its value is added to the value of the individual's existing countable resources and a determination is made on the impact to continue the individual's eligibility for MCS, per WAC 182-509-0005.

(b) If the gift is an excluded or noncountable resource, it does not affect the individual's eligibility or benefit level.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0065, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0080 MCS income—Self-employment income.** This section applies to medical care services (MCS).

(1) Self-employment income is income that is earned by an individual from running a business, performing a service, selling items that are made by the individual or by reselling items to make a profit.

(2) An individual is self-employed if the individual earns income without having an employer/employee relationship with the person who pays for the goods or services. This includes, but is not limited to, when:

(a) The individual has primary control of the way they do their work; or

(b) Income is reported by the individual using IRS Schedule C, Schedule C-EZ, Schedule K-1, or Schedule SE.

(3) An individual usually is considered to have an employer/employee relationship when:

(a) The person the individual provides services for has primary control of how the individual does their work; or

(b) The individual gets an IRS form W-2 to report their income.

(4) Self-employment does not have to be a licensed business for the individual's business or activity to qualify as self-employment. Some examples of self-employment include:

(a) Childcare that requires a license under chapter 74.15 RCW;

(b) Driving a taxi cab;

(c) Farming/fishing;

(d) Odd jobs such as mowing lawns, house painting, gutter cleaning, or car care;

(e) Running a lodging for roomers and/or boarders. Roomer income includes money paid to the individual for shelter costs by someone not in your assistance unit who lives with the individual when:

(i) The individual owns or is buying their own residence; or

(ii) The individual rents all or a part of their residence and the total rent charges to all others living in the home is more than the individual's total rent.

(f) Running an adult family home;

(g) Providing services such as a massage therapist or a professional escort;

(h) Retainer fees to reserve a bed for a foster child;

(i) Selling items that are home-made or items that are supplied to the individual;

(j) Selling or donating biological products such as providing blood or reproductive material for profit;

(k) Working as an independent contractor; and

(l) Running a business or trade either as a sole proprietorship or in a partnership.

(5) If the individual is an employee of a company or person who does the activities listed in subsection (2) of this section as a part of their job, the agency or the agency's designee does not count the work that is performed by the individual as self-employment.

(6) Self-employment income is counted as earned income as described in WAC 182-509-0030 except as described in subsection (7) of this section.

(7) There are special rules about renting or leasing out property or real estate that is owned by the individual. If the individual does not spend at least twenty hours per week managing the property, the income is counted as unearned income.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0080, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0085 MCS income—Self-employment income—Calculation of countable income.** This section applies to medical care services (MCS). The agency or the agency's designee decides how much of an individual's self-employment income to count by:

(12/18/13)

(1) Counting actual income in the month of application. This is done by:

(a) Adding together the individual's gross self-employment income and any profit the individual made from selling their business property or equipment;

(b) Subtracting the individual's business expenses as described in subsection (2) of this section; and

(c) Dividing the remaining amount of self-employment income by the number of months over which the income will be averaged.

(2) Subtracting one hundred dollars as a business expense even if the individual's costs are less than this. If the individual's costs are more than one hundred dollars, the agency or the agency's designee may subtract the individual's actual costs if the individual provides proof of their expenses. The following expenses are never allowed:

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

(b) Money set aside for retirement purposes;

(c) Personal work-related expenses (such as travel to and from work);

(d) Net losses from previous periods;

(e) Depreciation; or

(f) Any amount that is more than the payment the individual gets from a boarder for lodging and meals.

(3) If the individual has worked at their business for less than a year, figuring the individual's gross self-employment income by averaging:

(a) The income over the period of time the business has been in operation; and

(b) The monthly amount is estimated to be the amount the individual will get for the coming year.

(4) If the individual's self-employment expenses are more than their self-employment income, not using this "loss" to reduce income from other self-employment businesses or other sources of income to the assistance unit.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0085, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0095 MCS income—Allocating income—General.** This section applies to medical care services (MCS).

(1) Allocation is the process of determining how much of a financially responsible person's income is considered available to meet the needs of legal dependents within or outside of an assistance unit (AU).

(2) **"In-bound allocation"** means income possessed by a financially responsible person outside the AU which is considered available to meet the needs of legal dependents in the AU.

(3) **"Out-bound allocation"** means income possessed by a financially responsible AU member which is set aside to meet the needs of a legal dependent outside the AU.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0095, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0100 MCS income—Allocating income—Definitions.** The following definitions apply to the allocation rules for medical care services (MCS):

(1) **"Dependent"** means a person who:

(a) Is or could be claimed for federal income tax purposes by the financially responsible person; or

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(b) The financially responsible person is legally obligated to support.

(2) **"Financially responsible person"** means a parent, stepparent, adoptive parent, spouse or caretaker relative.

(3) **"Ineligible assistance unit member"** means a person who is:

(a) Ineligible for MCS due to the citizenship/alien status requirements in WAC 182-503-0532;

(b) Ineligible to receive MCS under WAC 182-503-0560 for fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime; or

(c) Ineligible to receive MCS under WAC 182-503-0560 for violating a condition of probation or parole which was imposed under federal or state law as determined by an administrative body or court of competent jurisdiction.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0100, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0110 MCS income—Allocating income to legal dependents.** This section applies to medical care services (MCS).

(1) The income of an individual is reduced by the following:

(a) The MCS earned income work incentive deduction as specified in WAC 182-509-0175; and

(b) An amount not to exceed the ordered amount paid for court or administratively ordered current or back support for legal dependents living outside the home.

(2) When an individual resides in a medical institution, alcohol or drug treatment center, boarding home, or adult family home and has income, the individual retains an amount equal to:

(a) The eligibility standard amount for the nonapplying spouse living in the home; and

(b) The eligibility standard or personal needs allowance the individual is eligible for based upon their living arrangement.

(3) An individual with countable income remaining after the allocation in subsection (2)(a) and (b) of this section is not eligible for medical care services (MCS).

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0110, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0135 MCS income—Allocating income of an ineligible spouse to a medical care services (MCS) client.** This section applies to medical care services (MCS). When an individual is married and lives with the nonapplying spouse, the following income is available to the individual:

(1) The remainder of the individual's wages, retirement benefits or separate property after reducing the income by:

(a) The MCS earned income work incentive deduction as specified in WAC 182-509-0175; and

(b) An amount not to exceed the ordered amount paid for court or administratively ordered current or back support for legal dependents living outside the home.

(2) The remainder of the nonapplying spouse's wages, retirement benefits and separate property after reducing the income by:

(a) An amount not to exceed the ordered amount paid for court or administratively ordered current or back support for legal dependents living outside the home; and

(b) The one-person eligibility standard amount as specified under WAC 182-508-0230 which includes ineligible assistance unit members.

(3) One-half of all other community income, as provided in WAC 182-509-0005.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0135, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0155 MCS income—Exemption from sponsor deeming for medical care services (MCS).** This section applies to medical care services (MCS).

(1) An individual who meets any of the following conditions is permanently exempt from deeming and none of a sponsor's income or resources are counted when determining eligibility for MCS:

(a) The Immigration and Nationality Act (INA) does not require the individual to have a sponsor. Immigrants who are not required to have a sponsor include those with the following status with United States Citizenship and Immigration Services (USCIS):

- (i) Refugee;
- (ii) Parolee;
- (iii) Asylee;
- (iv) Cuban/Haitian entrant; or
- (v) Special immigrant from Iraq or Afghanistan.

(b) The sponsor is an organization or group as opposed to an individual;

(c) The individual does not meet the alien status requirements to be eligible for benefits under WAC 182-503-0532;

(d) The individual has worked or can get credit for forty qualifying quarters of work under Title II of the Social Security Act. If the individual worked during a quarter in which they received TANF, Basic Food, SSI, CHIP, or nonemergency medicaid benefits, a quarter of work is not counted towards the forty quarters. A quarter of work by the following people is also counted toward the forty qualifying quarters:

- (i) The individual;
- (ii) The individual's parents for the time they worked before the individual turned eighteen years old (including the time they worked before the individual was born); and
- (iii) The individual's spouse if still married or if the spouse is deceased.

(e) The individual becomes a United States (U.S.) citizen;

(f) The individual's sponsor is dead; or

(g) If USCIS or a court decides that the individual, their child, or their parent was a victim of domestic violence from the sponsor and:

- (i) The individual no longer lives with the sponsor; and
- (ii) Leaving the sponsor caused the need for benefits.

(2) While the individual is in the same assistance unit (AU) as their sponsor, they are exempt from the deeming process. An individual is also exempt from the deeming process if:

(a) The sponsor signed the affidavit of support more than five years ago;

(b) The sponsor becomes permanently incapacitated; or

(c) The individual is a qualified alien according to WAC 388-424-0001 and:

(i) Is on active duty with the U.S. armed forces or the individual is the spouse or unmarried dependent child of someone on active duty;

(ii) Is an honorably discharged veteran of the U.S. armed forces or the individual is the spouse or unmarried dependent child of an honorably discharged veteran;

(iii) Was employed by an agency of the U.S. government or served in the armed forces of an allied country during a military conflict between the U.S. and a military opponent; or

(iv) Is a victim of domestic violence and the individual has petitioned for legal status under the Violence Against Women Act.

(3) If the individual, their child, or their parent was a victim of domestic violence, the individual is exempt from the deeming process for twelve months if:

(a) The individual no longer lives with the person who committed the violence; and

(b) Leaving this person caused the need for benefits.

(4) If the AU has income at or below one hundred thirty percent of the federal poverty level (FPL), the individual is exempt from the deeming process for twelve months. This is called the "indigence exemption." For this rule, the following is counted as income to the AU:

(a) Earned and unearned income the AU receives from any source; and

(b) Any noncash items of value such as free rent, commodities, goods, or services that are received from an individual or organization.

(5) If the individual chooses to use the indigence exemption, and is eligible for a state program, this information is not reported to the United States Attorney General.

(6) If the individual chooses not to use the indigence exemption:

(a) The individual could be found ineligible for benefits for not verifying the income and resources of the sponsor; or

(b) The individual will be subject to regular deeming rules under this section.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0155, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0165 MCS income—Income calculation.** This section applies to medical care services (MCS).

(1) Countable income is all income that is available to the assistance unit (AU) after the following is subtracted:

(a) Excluded or disregarded income under WAC 182-509-0015;

(b) The earned income work incentive deduction under WAC 182-509-0175;

(c) Income that is allocated to someone outside of the AU under WAC 182-509-0110 through 182-509-0135.

(2) Countable income includes all income that must be counted because it is deemed or allocated from financially responsible persons who are not members of the AU under WAC 182-509-0110 through 182-509-0165.

(3) Countable income is compared to the eligibility standards under WAC 182-508-0230.

(4) If countable income available to the AU is equal to or greater than the eligibility standard, the individual is not eligible for medical care services (MCS).

(12/18/13)

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0165, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0175 MCS income—Earned income work incentive deduction.** This section applies to medical care services (MCS).

(1) When determining eligibility for MCS, the agency or the agency's designee allows an earned income work incentive deduction of fifty percent of an individual's gross earned income.

(2) This deduction is used to reduce countable income before comparing the income to the eligibility standard for the program.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0175, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0200 MCS resources—How resources affect eligibility for medical care services (MCS).** This section applies to medical care services (MCS).

(1) The following definitions apply to this chapter:

(a) **"Equity value"** means the fair market value (FMV) minus any amount you owe on the resource.

(b) **"Community property"** means a resource in the name of the husband, wife, or both.

(c) **"Separate property"** means a resource of a married person that one of the spouses:

(i) Had possession of and paid for before they were married;

(ii) Acquired and paid for entirely out of income from separate property; or

(iii) Received as a gift or inheritance.

(2) A resource is counted towards the resource limit described in subsection (6) of this section when:

(a) It is a resource that must be counted under WAC 182-509-0205;

(b) The individual owns the resource. Ownership means:

(i) The individual's name is on the title to the property; or

(ii) The individual has property that doesn't have a title; and

and

(c) The individual has control over the resource, which means the resource is actually available to the individual; and

(d) The individual could legally sell the resource or convert it into cash within twenty days.

(3) The individual must try to make their resources available even if it will take more than twenty days to do so, unless:

(a) There is a legal barrier; or

(b) A court must be petitioned to release part or all of a resource.

(4) Resources are counted as of the date of application for MCS coverage.

(5) If total countable resources are over the resource limit in subsection (6) of this section, the individual is not eligible for MCS.

(6) Countable resources must be below the standards listed below based on the equity value of all countable resources.

(a) Applicants can have countable resources up to one thousand dollars.

(b) Recipients can have an additional three thousand dollars in a savings account.

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(7) If the individual owns a countable resource with someone who is not included in the assistance unit (AU), only the portion of the resource that is owned by the individual is counted. If ownership of the funds cannot be determined, an equal portion of the resource is presumed to be owned by the individual and all other joint owners.

(8) It is assumed an individual has control of community property and is legally able to sell the property or convert it to cash unless evidence is provided to show the individual does not have control of the property.

(9) An item may not be considered separate property if the individual used both separate and community funds to buy or improve it.

(10) The resources of victims of family violence are not counted when:

(a) The resource is owned jointly with member 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 individual at risk of harm.

(11) An individual may provide proof about a resource anytime, including when asked for proof by the agency or the agency's designee, or if the individual disagrees with a decision made about:

(a) Who owns a resource;

(b) Who has legal control of the resource;

(c) The value of a resource;

(d) The availability of a resource; or

(e) The portion of a property owned by the individual or another person(s).

(12) Resources of certain people who live in the home with the individual are countable, even if they are not getting assistance. Resources that count toward the resource limit in subsection (6) of this section include the resources of ineligible or financially responsible people as defined in WAC 182-509-0100.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0200, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0205 MCS resources—How resources count toward the resource limits for medical care services (MCS).** This section applies to medical care services (MCS).

(1) The following resources count toward the resource limit described in WAC 182-509-0200:

(a) Liquid resources not specifically excluded in subsection (2) of this section. These are resources that are easily changed into cash. Some examples of liquid resources are:

(i) Cash on hand;

(ii) Money in checking or savings accounts;

(iii) Money market accounts or certificates of deposit (CDs) less any withdrawal penalty;

(iv) Available retirement funds or pension benefits, less any withdrawal penalty;

(v) Stocks, bonds, annuities, or mutual funds less any early withdrawal penalty;

(vi) Available trusts or trust accounts;

(vii) Lump sum payments as described in this section; or

(viii) Any funds retained beyond the month of receipt from conversion of federally protected rights or extraction of

exempt resources by members of a federally recognized tribe that are in the form of countable resources.

(b) The cash surrender value (CSV) of whole life insurance policies.

(c) The CSV over fifteen hundred dollars of revocable burial insurance policies or funeral agreements.

(d) Funds withdrawn from an individual development account (IDA) if they were removed for a purpose other than those specified in RCW 74.08A.220.

(e) Any real property like a home, land, or buildings not specifically excluded in subsection (3) of this section.

(f) The equity value of vehicles as described in WAC 182-509-0210.

(g) Personal property that is not:

(i) A household good;

(ii) Needed for self-employment; or

(iii) Of "great sentimental value," due to personal attachment or hobby interest.

(h) Resources of a sponsor as described in WAC 388-470-0060.

(i) Sales contracts.

(2) The following types of liquid resources are not counted toward the resource limit described in WAC 182-509-0200 when determining eligibility for MCS:

(a) Bona fide loans, including student loans;

(b) Basic food benefits;

(c) Income tax refunds for twelve months from the date of receipt;

(d) Earned income tax credit (EITC) in the month received and for up to twelve months;

(e) Advance earned income tax credit payments;

(f) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(g) Individual development accounts (IDAs) established under RCW 74.08A.220;

(h) Retroactive cash benefits or TANF/SFA benefits resulting from a court order modifying a decision of the department;

(i) Underpayments received under chapter 388-410 WAC;

(j) Educational benefits that are excluded as income under WAC 182-509-0035;

(k) The income and resources of an SSI recipient;

(l) A bank account jointly owned with an SSI recipient if SSA already counted the money for SSI purposes;

(m) Foster care payments provided under Title IV-E and/or state foster care maintenance payments;

(n) Adoption support payments;

(o) Self-employment accounts receivable that the individual has billed to the customer but has been unable to collect;

(p) Resources specifically excluded by federal law; and

(q) Receipts from exercising federally protected rights or extracted exempt resources (fishing, shell fishing, timber sales, etc.) during the month of receipt for a member of a federally recognized tribe.

(3) The following types of real property are not counted when determining eligibility for MCS coverage:

(a) A home where the individual, their spouse, or their dependents live, including the surrounding property;



(b) A house the individual does not live in but plans to return to, and the individual is out of the home because of:

- (i) Employment;
- (ii) Training for future employment;
- (iii) Illness; or
- (iv) Natural disaster or casualty.

(c) Property that:

(i) The individual is making a good faith effort to sell;

(ii) The individual intends to build a home on, if they do not already own a home;

(iii) Produces income consistent with its fair market value (FMV), even if used only on a seasonal basis; or

(iv) A household member needs for employment or self-employment. Property excluded under this section and used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing.

(d) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

(4) If the individual deposits excluded liquid resources into a bank account with countable liquid resources, the excluded liquid resources are not counted for six months from the date of deposit.

(5) If the individual sells their home, the individual has ninety days to reinvest the proceeds from the sale of a home into an exempt resource.

(a) If the individual does not reinvest within ninety days, the agency or the agency's designee will determine whether there is good cause to allow more time. Some examples of good cause are:

- (i) Closing on a new home is taking longer than anticipated;
- (ii) The individual is unable to find a new home that is affordable;
- (iii) Someone in the household is receiving emergent medical care; or
- (iv) The individual has children or dependents that are in school and moving would require them to change schools.

(b) If good cause is determined, more time will be allowed based on the individual's circumstances.

(c) If good cause is not determined, the money received from the sale of the home is considered a countable resource.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0205, filed 9/13/12, effective 10/14/12.]

**WAC 182-509-0210 MCS resources—How vehicles count toward the resource limit for medical care services (MCS).** This rule applies to medical care services (MCS).

(1) A vehicle is any device for carrying persons and objects by land, water, or air.

(2) The entire value of a licensed vehicle needed to transport a physically disabled assistance unit (AU) member is excluded.

(3) The equity value of one vehicle up to five thousand dollars is excluded when the vehicle is used by the AU or household as a means of transportation.

[Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-509-0210, filed 9/13/12, effective 10/14/12.]

(12/18/13)

**WAC 182-509-0220 Washington apple health—How resources are considered.** (1) A resource is any cash, other personal property, or real property that a 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 or her support and maintenance.

(2) There is no resource limit for an applicant or recipient of the following Washington apple health (WAH) programs:

(a) WAH for workers with disabilities (HWD) program, as described in chapter 182-511 WAC;

(b) WAH foster care program (see WAC 182-505-0211);

(c) All programs that are based on modified adjusted gross income (MAGI) methodologies, as described in WAC 182-503-0510. This includes the following:

(i) WAH for parents and caretaker relatives (see WAC 182-505-0240);

(ii) WAH for pregnant women (see WAC 182-505-0115);

(iii) WAH for kids (see WAC 182-505-0210);

(iv) Premium-based WAH for kids (see WAC 182-505-0215);

(v) WAH long-term care for children and adults (see WAC 182-514-0230);

(vi) WAH for MAGI-based adult coverage (see WAC 182-505-0250); and

(vii) WAH MAGI-based adult alien emergency medical (see WAC 182-507-0110).

(3) For all other WAH programs, the resource limits and exclusions can be found in the following chapters:

(a) WAH SSI-related medical (see chapter 182-512 WAC);

(b) WAH long-term care (see chapters 182-513 and 182-515 WAC);

(c) SSI-related WAH alien medical program (see chapter 182-507 WAC);

(d) Medicare savings program (see WAC 182-517-0310);

(e) WAH for refugees (see WAC 182-507-0130); and

(f) Medical care services (see WAC 182-509-0200).

(4) The agency or its designee determines how trusts, annuities and life estates affect eligibility for WAH coverage for the programs listed in subsections (3)(a) through (f) of this section by following the rules described in chapter 182-516 WAC.

(5) Receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of protected resources, such as fishing, shell-fishing, or selling timber, is considered conversion of an exempt resource during the month of receipt. Any amounts remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if the funds were used to purchase another exempt resource. Any amounts remaining in the form of countable resources (such as in checking or savings accounts) on the first of the month after receipt, will be added to other countable resources for eligibility determinations when a resource determination is required by the specific WAH program. If no resource deter-

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mination is required by the specific WAH program, eligibility is not affected.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0220, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0225 Excluded resources for family medical programs.** "Continuously eligible" means, for the purposes of this chapter, there has not been a break of a calendar month or more in a client's eligibility since the date the client received resources in an amount that would cause the client to exceed the resource limit of a family medical program.

(1) The department does not count any increase in a client's resources received while a client:

(a) Is eligible for and receiving coverage under a family medical program; and

(b) Remains continuously eligible for a family medical program.

(2) The department does not count the resource increase for a client:

(a) Who meets the requirement of subsection (1)(a) of this section;

(b) Whose family medical program is terminated; and

(c) Who is later found eligible for all months since the termination, which may include a retroactive period of up to three months.

(3) The department counts the resource increase when the client is ineligible for a family medical program for a full calendar month or more except as described in subsection (2) of this section.

(4) When determining the eligibility of a Holocaust survivor for a family medical program, the department does not count the recoveries of:

(a) Insurance proceeds; and

(b) Other assets.

(5) For the purposes of this section, a family medical program includes the medical extension benefits as described in WAC 388-523-0100.

[WSR 12-13-056, recodified as § 182-509-0225, filed 6/15/12, effective 7/1/12. Statutory Authority: RCW 74.08.090, 74.08A.100, 74.09.080, and 74.09.415. WSR 02-17-030, § 388-470-0026, filed 8/12/02, effective 9/12/02. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530 and 2000 2nd sp.s. c 1 § 210(12). WSR 01-18-006, § 388-470-0026, filed 8/22/01, effective 9/22/01.]

**WAC 182-509-0300 Modified adjusted gross income (MAGI).** (1) The agency uses the modified adjusted gross income (MAGI) methodology to determine eligibility for MAGI-based Washington apple health (WAH) programs described in WAC 182-509-0305.

(2) MAGI methodology is described in WAC 182-509-0300 through 182-509-0375. Generally, MAGI includes adjusted gross income (as determined by the Internal Revenue Code (IRC)) increased by:

(a) Any amount excluded from gross income under Section 911 of the IRC;

(b) Any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax; and

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(c) Any amount of Title II Social Security income or Tier 1 Railroad Retirement income which is excluded from gross income under Section 86 of the IRC.

(3) When calculating a person's eligibility for the programs listed in WAC 182-509-0305, the agency uses the person's MAGI income with the following exceptions:

(a) Scholarships or fellowship grants described in WAC 182-509-0335 used for education purposes are excluded from income;

(b) Income received by American Indian/Alaskan Native individuals described in WAC 182-509-0340 is excluded from income; and

(c) Any income received as a lump sum as described in WAC 182-509-0375 is counted as income only in the month in which it is received.

(4) Countable MAGI income is reduced by an amount equal to five percentage points of the federal poverty level (FPL) based on household size to determine net income except that there is no such reduction of countable MAGI income for parents or caretaker relatives with an eligible dependent child whose net countable income is below thirty-five percent of the FPL (as described in WAC 182-509-0305(1)). Net income is compared to the applicable standard described in WAC 182-505-0100.

(5) When calculating a person's eligibility for MAGI-based programs listed in WAC 182-509-0305, the agency determines the medical assistance unit for each person according to WAC 182-506-0010.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0300, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0305 MAGI income—Persons subject to the modified adjusted gross income (MAGI) methodology.** Eligibility for Washington apple health (WAH) for the following persons is determined using the modified adjusted gross income (MAGI) methodology described in WAC 182-509-0300.

(1) Parents or caretaker relatives with an eligible dependent child (described in WAC 182-503-0565) whose net countable income is below fifty-four percent of the federal poverty level (FPL) as described in WAC 182-505-0240.

(2) Parents or caretaker relatives with an eligible dependent child whose net countable income exceeds the standard described in subsection (1) of this section but is at or below one hundred thirty-three percent FPL as described in WAC 182-505-0250 and 182-507-0110.

(3) Adults with no eligible dependent child with net countable income at or below one hundred thirty-three percent FPL as described in WAC 182-505-0250 and 182-507-0110.

(4) Pregnant women or women within a two-month postpartum period whose net countable income, based on a household size that includes any unborn children, is below one hundred ninety-three percent FPL at the time of application, as described in WAC 182-505-0115.

(5) Children age eighteen or younger in households with net countable income which is below two hundred ten percent FPL as described in WAC 182-505-0210 (3)(a).

(6) Children age eighteen or younger in households with net countable income which is between two hundred ten per-

cent and three hundred twelve percent FPL as described in WAC 182-505-0215. Children who are eligible under this section are subject to premiums as described in WAC 182-505-0225.

(7) Household size for a person who is subject to MAGI income methodologies is determined according to WAC 182-506-0010.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0305, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0310 MAGI income—Timing of income.** For purposes of determining eligibility for modified adjusted gross income (MAGI)–based Washington apple health (WAH) (see WAC 182-509-0300):

(1) The agency uses a point-in-time estimate to determine a person's countable income.

(2) Point-in-time means that the income is received, or is likely to be received, in the month in which the person submits an application or renewal for WAH, or the month in which the agency completes a redetermination of coverage, with the following provisions:

(a) When a person is paid less frequently than on a monthly basis, (for example, they are self-employed), the agency uses an average to calculate the monthly amount. The average is calculated by:

(i) Adding the total income for representative period of time;

(ii) Dividing by the number of months in the time frame; and

(iii) Using the result as a monthly average.

(b) When a person is paid more frequently than on a monthly basis, the agency uses the following budgeting method to calculate a monthly amount:

(i) If the person is paid weekly, the agency multiplies weekly expected income by 4.3;

(ii) If the person is paid every other week, the agency multiplies expected income by 2.15.

(c) If the person's current income does not represent his or her projected income as evidenced by clear indications of future changes in income, the agency permits the person to estimate a monthly amount by averaging income over a representative period of time.

(3) If the person normally gets the income:

(a) On a specific day, the agency counts it as available on that date.

(b) Monthly or twice monthly and pay dates change due to a reason beyond the person's control, such as a weekend or holiday, it is counted in the month it would normally be received.

(c) Weekly or every other week and pay dates change due to a reason beyond the person's control, it is counted in the month it would normally be received.

(4) For information about how income is verified, see WAC 182-503-0050.

(5) If the person reports a change in income as required under WAC 182-504-0105 and the change is expected to last for two months or longer, the agency updates the estimate of income based on this change, unless the person receives categorically needy WAH coverage as a pregnant woman or child.

(12/18/13)

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0310, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0315 MAGI income—Ownership of income.** (1) For purposes of determining eligibility for modified adjusted gross income (MAGI)–based Washington apple health (WAH) (see WAC 182-509-0300) income is considered available to a person if:

(a) An individual in the person's medical assistance unit receives or can reasonably predict that he or she will receive the income.

(b) The income must be counted based on rules under chapter 182-509 WAC.

(c) The person has control over the income, which means the income is available to them. If the person has a representative payee, protective payee, or other individual who manages the income on the person's behalf, it is considered as if the person has control over this income.

(d) The person can use the income to meet current needs.

(2) Income that is included in the person's taxable gross income which is required to be reported to the Internal Revenue Service (IRS) is considered as available even if it is paid to someone else or withheld to pay a garnishment, lien or other obligation. (For example, a person manages a block of apartments and lives in one of the apartments. The employer withholds a portion of the person's monthly wages as rent due for the apartment in which he resides. The income that is counted is the gross amount prior to the deduction for rent.)

(3) The agency may conduct post-eligibility reviews of health care applications as described in WAC 182-503-0050. Upon request by the agency, a person must provide proof about a type of income, including submitting clarification on:

(a) Who owns the income;

(b) Who has legal control of the income;

(c) The amount of the income; or

(d) If the income is available.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0315, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0320 MAGI income—Noncountable income.** For purposes of determining eligibility for modified adjusted gross income (MAGI)–based Washington apple health (WAH) (see WAC 182-509-0300):

(1) Some types of income are not counted when determining eligibility for MAGI-based WAH. Under the MAGI income methodology described in WAC 182-509-0300, income is not counted if the Internal Revenue Service (IRS) permits it to be excluded or deducted for purposes of determining the tax liability of a person. (See 26 U.S.C. Sections 62(a) and 101-140.)

(2) Examples of income that are not counted include, but are not limited to:

(a) Bona fide loans, except certain student loans as specified under WAC 182-509-0335;

(b) Federal income tax refunds and earned income tax credit (EITC) payments for up to twelve months from the date received;

(c) Child support payments received by any person included in household size under WAC 182-506-0010;

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(d) Time loss benefits or other compensation received for sickness or injury, such as benefits from the department of labor and industries (L&I) or a private insurance company;

(e) Title IV-E and state foster care maintenance payments;

(f) Veteran's benefits including, but not limited to, disability compensation and pension payments for disabilities paid to the veteran or family members; education, training and subsistence; benefits under a dependent-care assistance program for veterans, housebound allowance and aid and attendance benefits;

(g) Educational assistance that is not counted under WAC 182-509-0335;

(h) Native American benefits and payments that are not counted under WAC 182-509-0340;

(i) Income from employment and training programs that is not counted under WAC 182-509-0345;

(j) Needs-based assistance from other agencies or organizations that is not counted under WAC 182-509-0350;

(k) Money withheld from a benefit to repay an overpayment from the same income source;

(l) One-time payments issued under the Department of State or Department of Justice reception and replacement programs, such as Voluntary Agency (VOLAG) payments;

(m) Any portion of income used to repay the cost of obtaining that income source;

(n) Insurance proceeds or other income received as a result of being a Holocaust survivor;

(o) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(p) Federal twenty-five dollar supplement weekly unemployment compensation payment authorized by the American Recovery and Reinvestment Act of 2009;

(q) Income from a sponsor given to a sponsored immigrant;

(r) Energy assistance payments;

(s) Fringe benefits provided on a pretax basis by an employer, such as transportation benefits or moving expenses;

(t) Employer contributions to certain pretax benefits funded by an employee's elective salary reduction, such as amounts for a flexible spending account;

(u) Distribution of pension payments paid by the employee (such as premiums or contributions) that were previously subject to tax;

(v) Gifts or inheritances to the person that are not counted under WAC 182-509-0355;

(w) Death benefits from life insurance and certain benefits paid for deaths that occur in the line of duty; and

(x) Other payments that are excluded from income under state or federal law.

(3) Income received from the following cash programs is not countable income for MAGI-based WAH programs:

(a) Diversion cash assistance (DCA);

(b) Temporary assistance for needy families (TANF);

(c) State family assistance (SFA);

(d) Pregnant women's assistance (PWA);

(e) Refugee cash assistance (RCA);

(f) Aged, blind, disabled cash assistance (ABD); and

(g) Supplemental security income (SSI).

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0320, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0325 MAGI income—Unearned income.** For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) Unearned income is income received from a source other than employment or self-employment. Examples of unearned income include, but are not limited to:

(a) Tier 1 Railroad Retirement;

(b) Unemployment compensation, except as described in WAC 182-509-0320;

(c) Title II Social Security benefits (including retirement benefits, disability benefits, and benefits for survivors);

(d) Rental income;

(e) Pensions, IRAs, military retirement and annuity payments, except as described in WAC 182-509-0320;

(f) Dividend payments from stocks or shares held in companies; and

(g) Per capita distributions from gaming made by a tribe (see WAC 182-509-0340).

(2) When the unearned income must be counted, the agency counts the gross amount before any taxes or premiums are taken out.

(3) See WAC 182-509-0320 for examples of unearned income that are not counted.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0325, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0330 MAGI income—Earned income.** For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) Earned income is income received from working. This includes, but is not limited to:

(a) Wages;

(b) Salaries;

(c) Tips;

(d) Commissions;

(e) Profits from self-employment activities as described in WAC 182-509-0365; and

(f) One-time payments for work done over a period of time, if the income is received in the month of application.

(2) When earned income must be counted, the agency computes the countable amount based on deductions from income allowed by the Internal Revenue Service when determining a person's tax liability.

(3) See WAC 182-509-0370 for information on how self-employment income is counted.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0330, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0335 MAGI income—Educational benefits.** For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300), the agency or its

designee does not count educational assistance as income. Examples include, but are not limited to:

(1) Educational assistance in the form of grants or loans issued under Title IV of the Higher Education Amendments (Title IV - HEA) or through a program administered by the Department of Education (DOE), such as:

- (a) Pell grants (Title IV);
- (b) Stafford loans (Title IV);
- (c) Perkins loan program (Title IV);
- (d) State need grant program (Title IV);
- (e) Christa McAuliffe fellowship program (DOE);
- (f) Jacob K. Javits fellowship program (DOE); and
- (g) Library career training program (DOE).

(2) Payments received for education, training, or subsistence under any law administered by the department of Veteran's Affairs (VA).

(3) Student financial assistance provided under the Bureau of Indian Affairs education programs.

(4) Educational assistance in the form of grants or loans under the Carl D. Perkins Vocational and Applied Technology Education Act, P.L. 101-392.

(5) Work study income including:

- (a) Federal or state work study income; and
- (b) WorkFirst work study income.

(6) Payments to service academy cadets at a military academy.

(7) Payments for the purposes of tuition made on behalf of the individual to an educational organization for the education or training of such individual.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0335, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0340 MAGI income—American Indian/Alaska Native excluded income.** For the purposes of determining eligibility of American Indians/Alaska Natives for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300), the agency excludes from MAGI the following:

(1) Distributions from Alaska Native corporations and settlement trusts;

(2) Distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the Secretary of the Interior;

(3) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:

(a) Rights of ownership or possession in any lands described in (b) of this subsection; or

(b) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources.

(4) Distributions resulting from real property ownership interests related to natural resources and improvements that are:

(a) Located on or near a reservation or within the most recent boundaries of a prior federal reservation; or

(b) Resulting from the exercise of federally protected rights relating to such real property ownership interests.

(5) Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, tra-

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ditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom;

(6) Student financial assistance provided under the Bureau of Indian Affairs education programs; and

(7) Any other applicable income exclusion as provided by federal law, regulation, or rule, including the Internal Revenue Code, treasury regulations, and Internal Revenue Service revenue rulings, revenue procedures, notices, and other official tax guidance.

[Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-102, § 182-509-0340, filed 12/18/13, effective 1/18/14.]

**WAC 182-509-0345 MAGI income—Income from employment and training programs.** For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) The agency excludes income received from the following programs:

(a) Payments issued under the Workforce Investment Act (WIA);

(b) Payments issued under the National and Community Service Trust Act of 1993. This includes payments made through the AmeriCorps program;

(c) Payments issued under Title I of the Domestic Volunteer Act of 1973, such as VISTA, AmeriCorps VISTA, University Year for Action, and Urban Crime Prevention Program; and

(d) All payments issued under Title II of the Domestic Volunteer Act of 1973. These include:

(i) Retired senior volunteer program (RSVP);

(ii) Foster grandparents program; and

(iii) Senior companion program.

(2) The agency counts training allowances from vocational and rehabilitative programs as earned income when:

(a) The program is recognized by federal, state, or local governments;

(b) The allowance is not a reimbursement; and

(c) The person is required to file a U.S. tax return and the IRS considers the income to be taxable.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0345, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0350 MAGI income—Needs-based assistance from other agencies or organizations.** For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health (WAH) (see WAC 182-509-0300):

(1) The agency does not count needs-based assistance given to a person by other agencies or organizations if the assistance given is not treated as taxable income by the IRS. Examples of needs-based assistance are:

(a) Clothing;

(b) Food;

(c) Household supplies;

(d) Medical supplies (nonprescription);

(e) Personal care items;

(f) Shelter;

- (g) Transportation; and
- (h) Utilities (e.g., lights, cooking fuel, the cost of heating or heating fuel).

(2) **"Needs-based"** means eligibility for the program is based on having limited income and/or resources. This definition excludes such incomes as retirement benefits or unemployment compensation which are not needs-based.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0350, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0355 MAGI income—Gifts and inheritances.** For purposes of determining eligibility for modified adjusted gross income (MAGI)–based Washington apple health (WAH) (see WAC 182-509-0300):

(1) A gift is property received by a person without work or cost on his or her part. An inheritance is property received by a person from the estate of a deceased person.

(2) The agency does not count as income to a person any gifts or inheritances, whether cash or noncash, received by the person, except that the agency does count as income to a person any income from any gift or inheritance.

(3) The agency does not count as income to a person any amounts paid on behalf of that person to any person who provides medical care (as defined in Internal Revenue Code Section 213(d)) to that person.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0355, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0360 MAGI income—How a child's income is counted.** For purposes of determining eligibility for modified adjusted gross income (MAGI)–based Washington apple health (WAH) (see WAC 182-509-0300):

(1) Income received by a child claimed as a tax dependent by someone else is not counted when determining the eligibility of the tax filers who claim the tax dependent.

(2) Income received by a child in a nonfiling medical assistance unit (as described in WAC 182-506-0010) is not counted when determining the eligibility of the child or the other household members in the nonfiling household.

(3) Income received by a child age eighteen or younger who is required to file his or her own tax return but who is also claimed as a tax dependent by another person is counted when determining eligibility for WAH for the child, but not the person that claims them.

(4) Income of a sibling is not counted when determining the eligibility of any other sibling in the household.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0360, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0365 MAGI income—Self-employment income.** For purposes of determining eligibility for modified adjusted gross income (MAGI)–based Washington apple health (WAH) (see WAC 182-509-0300):

(1) Self-employment income is income earned by a person from running a business, performing a service, selling items that are made, or reselling items with the intent to make a profit. This income can be earned if the person is carrying on a trade or business as a sole proprietor or an independent

contractor; a member of a partnership that carries on a trade or business; or otherwise in business for themselves (including a part-time business).

(2) A person is considered to be self-employed if they earn income without having an employer/employee relationship with the individual who pays the income. Factors to consider are:

(a) The person has primary control or has the right to control what they do and how they do their job;

(b) The business aspects of the person's job are controlled by the person and not the payer (this includes things like how the person is paid, whether expenses are reimbursed, or who provides tools/supplies);

(c) The person has a written contract stating that he or she is an independent contractor; or

(d) The person reports his or her income using IRS Schedule C, Schedule C-EZ, Schedule K-1, or Schedule SE.

(3) A person is considered to have an employer/employee relationship when:

(a) The individual the person provides services for has primary control of how the work is done; or

(b) The person receives an IRS Form W-2 to report the income that is earned.

(4) Self-employment does not have to be a licensed business for a person's business or activity to qualify as self-employment. Some examples of self-employment are:

(a) Child care that requires a license under chapter 74.15 RCW;

(b) Driving a taxi cab;

(c) Farming/fishing;

(d) Odd jobs such as mowing lawns, house painting, gutter cleaning, or car care;

(e) Running lodging for roomers or boarders. Roomer income includes money paid to a person for shelter costs by someone not included in the person's household who resides in the same home when:

(i) The person owns or is buying his or her residence; or

(ii) The person rents all or a part of the residence and the total rent charged to all others in the home is more than the total rent obligation of the person.

(f) Running an adult family home;

(g) Providing services such as a massage therapist or a professional escort;

(h) Retainer fees to reserve a bed for a foster child;

(i) Selling home-made items or items that are supplied to the individual;

(j) Selling or donating biological products such as providing blood or reproductive material for profit;

(k) Working as an independent contractor; and

(l) Running a business or trade either as a sole proprietorship or in a partnership.

(5) A person must keep records of his or her self-employment income and deductions and provide this information to the agency upon request.

(6) The agency does not count receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of exempt resources as self-employment income (such as fishing, shell-fishing, or selling timber from protected tribal land). This is considered conversion of a resource. See WAC 182-509-0340.

(7) A person who is an employee of a company or other individual who does the activities listed in subsection (4) of this section as a part of his or her job duties is not considered to be self-employed.

(8) Self-employment income is counted as earned income as described in WAC 182-509-0330.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0365, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0370 MAGI income—How self-employment income is counted.** For purposes of determining eligibility for modified adjusted gross income (MAGI)–based Washington apple health (WAH) (see WAC 182-509-0300):

(1) If the person has worked long enough at the business to file a federal tax return for the previous year and it represents his or her current income, the agency determines self-employment income by using the income and deductions claimed on the previous year's tax return.

(2) If the person has not worked long enough at the business to file a federal tax return in the previous year, the agency permits a determination of monthly self-employment income by:

(a) Adding together gross self-employment income and any profit made from selling business property or equipment over the period of time the business has been in operation within the last year;

(b) Subtracting business expenses and income deduction expenses allowed by the Internal Revenue Service that the person would be entitled to if they were filing a full year return; and

(c) Averaging the income to come up with a monthly amount based on the period of time the business has been in operation within the last year.

(3) If the person's current income does not represent his or her projected income as evidenced by clear indications of future changes in income, the agency permits the person to estimate a monthly amount by averaging income over a representative period of time.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0370, filed 12/9/13, effective 1/9/14.]

**WAC 182-509-0375 MAGI income—Lump sums.** For purposes of determining eligibility for modified adjusted gross income (MAGI)–based Washington apple health (WAH) (see WAC 182-509-0300):

(1) A lump sum payment is money that a person receives but does not expect to receive on a continuing basis, such as an insurance settlement.

(2) Any portion of a lump sum payment that is awarded for wrongful death, personal injury, damage, or loss of property is excluded from income.

(3) Any remaining portion of a lump sum payment is counted as income if it is received in the month of application, unless it qualifies as noncounted income under another rule, and with the exception of subsections (4) and (5) of this section.

(4) Receipt of a lump sum by a member of a federally recognized tribe from exercising federally protected rights or

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extraction of exempt resources is considered an exempt resource in the month of receipt and is not budgeted as income.

(5) Federal, state and local tax refunds (including any interest and penalties) and earned income tax lump sums are not counted as income.

[Statutory Authority: RCW 41.05.021, Patient Protection and Affordable Care Act (P.L. 111-148), 42 C.F.R. §§ 431, 435, 457, and 45 C.F.R. § 155. WSR 14-01-021, § 182-509-0375, filed 12/9/13, effective 1/9/14.]