

WAC 182-513-1340 Determining excluded income for long-term care (LTC) services. This section describes income the agency or its designee excludes when determining a client's eligibility and participation in the cost of care for long-term care (LTC) services.

(1) When determining a client's eligibility and participation in the cost of care for LTC services, the agency excludes:

(a) Crime victim's compensation;

(b) Earned income tax credit (EITC) for twelve months after the month of receipt;

(c) American Indian/Alaskan native benefits excluded by federal statute (refer to WAC 182-512-0770);

(d) Tax rebates or special payments excluded by other statutes;

(e) Any public agency's refund of taxes paid on real property and/or on food;

(f) Supplemental security income (SSI) and certain state public assistance based on financial need;

(g) The amount a representative payee charges to provide services when the services are a requirement for the client to receive the income;

(h) The amount of expenses necessary for a client to receive compensation, e.g., legal fees necessary to obtain settlement funds;

(i) Education benefits under WAC 182-512-0760;

(j) Self-employment income allowed as a deduction by the Internal Revenue Service (IRS);

(k) Payments to prevent fuel cut-offs and to promote energy efficiency that are excluded by federal statute;

(l) Assistance (other than wages or salary) received under the Older Americans Act;

(m) Assistance (other than wages or salary) received under the foster grandparent program;

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

(o) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement that are left to accumulate and become part of the separately identified burial funds set aside;

(p) Tax exempt payments received by Alaska natives under the Alaska Native Settlement Act established by P.L. 100-241;

(q) Compensation provided to volunteers in ACTION programs under the Domestic Volunteer Service Act of 1973 established by P.L. 93-113;

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

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

(t) Payments made under the Energy Employees Occupational Illness Compensation Program Act of 2000, (EEOICPA) Pub. L. 106-398;

(u) Restitution payment, and interest earned on such payment to a civilian of Japanese or Aleut ancestry established by P.L. 100-383;

(v) Payments made under sections 500 through 506 of the Austrian General Social Insurance Act;

(w) Payments made from *Susan Walker v. Bayer Corporation, et, al.*, 95-C-5024 (N.D. Ill.) (May 8, 1997) settlement funds;

(x) Payments made from the Ricky Ray Hemophilia Relief Fund Act of 1998 established by P.L. 105-369;

(y) Payments made under the Disaster Relief and Emergency Assistance Act established by P.L. 100-387;

(z) Payments made under the Netherlands' Act on Benefits for Victims of Persecution (WUV);

(aa) Payments made to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act;

(bb) Interest or dividends received by the institutionalized individual is excluded as income. Interest or dividends received by the community spouse of an institutional individual is counted as income of the community spouse. Dividends and interest are returns on capital investments such as stocks, bonds, or savings accounts. Institutional status is defined in WAC 182-513-1320;

(cc) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible client, e.g., chore services.

(2) The agency or its designee treats Department of Veterans Affairs (VA) benefits as follows:

(a) Any VA dependent allowance is countable income to the dependent unless it is paid due to unusual medical expenses (UME);

(b) UME, aid and attendance allowance, special monthly compensation (SMC) and housebound allowance are third-party resources;

(c) Benefits in subsection (2)(b) of this section for a client who receives long-term care services are excluded when determining eligibility, but are available as a third-party resource (TPR) as defined under WAC 182-513-1100 when determining the amount the institutionalized client contributes in the cost of care.

(3) Any other income excluded by federal law is excluded.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 19-11-050, § 182-513-1340, filed 5/10/19, effective 6/10/19. Statutory Authority: RCW 41.05.021, 41.05.160, P.L. 111-148, 42 C.F.R. §§ 431, 435, and 457, and 45 C.F.R. § 155. WSR 17-03-116, § 182-513-1340, filed 1/17/17, effective 2/17/17. WSR 13-01-017, recodified as WAC 182-513-1340, filed 12/7/12, effective 1/1/13. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, section 6014 of the Deficit Reduction Act of 2005 (DRA), and 2010 1st sp.s. c 37 § 209(1). WSR 12-21-091, § 388-513-1340, filed 10/22/12, effective 11/22/12. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530, Social Security Act § 1611, 1902, and C.F.R. 435.725. WSR 09-09-101, § 388-513-1340, filed 4/20/09, effective 5/21/09. Statutory Authority: RCW 74.08.090, 74.04.050, 74.04.057, 42 C.F.R. 435.601, 42 C.F.R. 435.725-726, and Sections 4715 and 4735 of the Federal Balanced Budget Act of 1997 (P.L. 105-33) (H.R. 2015). WSR 00-01-087, § 388-513-1340, filed 12/14/99, effective 1/14/00. Statutory Authority: RCW 74.08.090 and Title XIX State Agency Letter #94-33. WSR 95-02-028 (Order 3819), § 388-513-1340, filed 12/28/94, effective 1/28/95. Statutory Authority: RCW 74.08.090. WSR 94-10-065 (Order 3732), § 388-513-1340, filed 5/3/94, effective 6/3/94. Formerly WAC 388-95-340 (part).]