

WAC 182-513-1330 Determining available income for legally married couples for long-term care (LTC) services. This section describes income the agency or its designee determines available when evaluating a legally married person's eligibility for long-term care (LTC) services.

(1) The agency or the agency's designee applies the following rules when determining income eligibility for LTC services:

- (a) WAC 182-512-0600 SSI-related medical—Definition of income;
- (b) WAC 182-512-0650 SSI-related medical—Available income;
- (c) WAC 182-512-0700 SSI-related medical—Income eligibility;
- (d) WAC 182-512-0750 SSI-related medical—Countable unearned income;
- (e) WAC 182-512-0840(3), self-employment income-allowance expenses;
- (f) WAC 182-512-0960 SSI-related medical—Allocating income—Determining eligibility for a spouse when the other spouse receives long-term services and supports (LTSS);
- (g) WAC 182-512-0785, 182-512-0790, and 182-512-0795 for sponsored immigrants and how to determine if the sponsors' income counts in determining benefits.

(2) In initial categorically needy income eligibility for LTC, the agency does not allow any deductions listed in 1612(b) of the Social Security Act, for example:

- (a) Twenty dollars per month income exclusion under WAC 182-512-0800;
- (b) The first \$65 and the remaining one-half earned income work incentive under WAC 182-512-0840; and
- (c) Impairment related work expense or blind work expense under WAC 182-512-0840.

(3) The following income is available to an institutionalized spouse, unless subsections (5) and (6) apply:

- (a) Income received in the institutionalized spouse's name;
- (b) Income paid to a representative on the institutionalized spouse's behalf; and
- (c) One-half of the income received in the names of both spouses.

(4) The following income is unavailable to an institutionalized spouse:

- (a) Separate income received in the name of the community spouse; and
- (b) Income established as unavailable through a court order.

(5) For the determination of eligibility only, if available income under subsection (3)(a) through (c) of this section, minus income exclusions under WAC 182-513-1340, exceeds the special income level (SIL), defined under WAC 182-513-1100, the agency or its designee:

- (a) Follows Washington state community property law when determining ownership of income;
- (b) Presumes all income received after the marriage by either spouse to be community income;
- (c) Considers one-half of all community income available to the institutionalized spouse.

(6) If the total of subsection (5)(c) of this section plus the institutionalized spouse's separate income is over the SIL, determine available income using subsection (3) of this section.

(7) A stream of income, not generated by a transferred resource, is available to the institutionalized spouse, even if the institution-

alized spouse transfers or assigns the rights to the stream of income to one of the following:

- (a) The community spouse; or
- (b) A trust for the benefit of the community spouse.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 18-16-058, § 182-513-1330, filed 7/26/18, effective 8/26/18. 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, § 182-513-1330, filed 1/17/17, effective 2/17/17. WSR 13-01-017, recodified as WAC 182-513-1330, 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, § 388-513-1330, filed 10/22/12, effective 11/22/12. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.575, and 2005 federal Deficit Reduction Act (DRA), Public Law 109-171. WSR 07-17-152, § 388-513-1330, filed 8/21/07, effective 10/1/07. Statutory Authority: RCW 74.08.090. WSR 06-07-077, § 388-513-1330, filed 3/13/06, effective 4/13/06. Statutory Authority: RCW 11.92.180, 43.20B.460, 48.85.020, 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530, 74.[09.]575, 74.09.585; 20 C.F.R. 416.1110-1112, 1123 and 1160; 42 C.F.R. 435.403 (j) (2) and 1005; and Sections 17, 1915(c), and 1924 (42 U.S.C. 1396) of the Social Security Act. WSR 00-01-051, § 388-513-1330, filed 12/8/99, effective 1/8/00. Statutory Authority: RCW 74.08.090 and 74.09.500. WSR 99-06-045, § 388-513-1330, filed 2/26/99, effective 3/29/99. Statutory Authority: RCW 74.08.090, 74.05.040 and 20 C.F.R. 416.1110-1112, 1123 and 1160. WSR 97-10-022, § 388-513-1330, filed 4/28/97, effective 5/29/97. Statutory Authority: RCW 74.08.090 and Title XIX State Agency Letter #94-33. WSR 95-02-028 (Order 3819), § 388-513-1330, filed 12/28/94, effective 1/28/95. Statutory Authority: RCW 74.08.090. WSR 94-10-065 (Order 3732), § 388-513-1330, filed 5/3/94, effective 6/3/94. Formerly parts of WAC 388-95-335 and 388-95-340.]