

WSR 21-05-036

EXPEDITED RULES

HEALTH CARE AUTHORITY

[Filed February 11, 2021, 10:58 a.m.]

Title of Rule and Other Identifying Information: WAC 182-513-1380 Determining a client's financial participation in the cost of care for long-term care in a medical institution.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is revising this section to fix a broken hyperlink for apple health income and resource standards. No other changes are being proposed to this section. This is strictly a housekeeping change.

Reasons Supporting Proposal: Providers and stakeholders need to be able to locate income and resource standards.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Health care authority (HCA), governmental.

Name of Agency Personnel Responsible for Drafting: Michael Williams, P.O. Box 2213, Olympia, WA 98501, 360-725-1346; Implementation and Enforcement: Mark Westenhaver, P.O. Box 3035A, Olympia, WA 98501, 360-725-1324.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO HCA, Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1306, fax 360-586-9727, email arc@hca.wa.gov, AND RECEIVED BY April 20, 2021.

February 11, 2021  
Wendy Barcus  
Rules Coordinator

OTS-2915.1

AMENDATORY SECTION (Amending WSR 20-08-082, filed 3/27/20, effective 4/27/20)

**WAC 182-513-1380 Determining a client's financial participation in the cost of care for long-term care in a medical institution.** This rule describes how the agency or the agency's designee allocates income and excess resources when determining participation in the cost of care in a medical institution.

- (1) The agency or the agency's designee defines which income and resources must be used in this process under WAC 182-513-1315.
- (2) The agency or the agency's designee allocates nonexcluded income in the following order, and the combined total of (a), (b), (c), and (d) of this subsection cannot exceed the effective one-person medically needy income level (MNIL):
  - (a) A personal needs allowance (PNA) under WAC 182-513-1105.
  - (b) Mandatory federal, state, or local income taxes owed by the client.
  - (c) Wages for a client who:
    - (i) Is related to the supplemental security income (SSI) program under WAC 182-512-0050(1); and
    - (ii) Receives the wages as part of an agency-approved or department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction, employment expenses are not deducted.
  - (d) Guardianship fees and administrative costs, including any attorney fees paid by the guardian, as allowed under chapter 388-79A WAC.
- (3) The agency or the agency's designee allocates nonexcluded income after deducting amounts under subsection (2) of this section in the following order:
  - (a) Current or back child support garnished or withheld from income according to a child support order in the month of the garnishment if it is:
    - (i) For the current month;
    - (ii) For the time period covered by the PNA; and
    - (iii) Not counted as the dependent member's income when determining the dependent allocation amount under WAC 182-513-1385.
  - (b) A monthly maintenance needs allowance for the community spouse as determined using the calculation under WAC 182-513-1385. If the community spouse is also receiving long-term care services, the allocation is limited to an amount that brings the community spouse's income up to the PNA.
  - (c) A dependent allowance for each dependent of the institutionalized client or the client's spouse, as determined using the calculation under WAC 182-513-1385.
  - (d) Medical expenses incurred by the institutionalized individual and not used to reduce excess resources. Allowable medical expenses and reducing excess resources are described in WAC 182-513-1350.
  - (e) Maintenance of the home of a single institutionalized client or institutionalized couple:
    - (i) Up to one hundred percent of the one-person federal poverty level per month;
    - (ii) Limited to a six-month period;
    - (iii) When a physician has certified that the client or couple is likely to return to the home within the six-month period; and
    - (iv) When social services staff documents the need for the income deduction.
- (4) A client may have to pay third-party resources as defined under WAC 182-513-1100 in addition to the participation.
- (5) A client is responsible to pay only up to the state rate for the cost of care. If long-term care insurance pays a portion of the state rate cost of care, a client pays only the difference up to the state rate cost of care.

(6) When a client lives in multiple living arrangements in a month, the agency allows the highest PNA available based on all the living arrangements and services the client has in a month.

(7) Standards under this section for long-term care are found at (~~[www.hca.wa.gov/free-or-low-cost-health-care/program-administration/standards-lte](http://www.hca.wa.gov/free-or-low-cost-health-care/program-administration/standards-lte)~~) <https://www.hca.wa.gov/health-care-services-supports/program-standard-income-and-resources>.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-08-082, § 182-513-1380, filed 3/27/20, effective 4/27/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2017 c 270. WSR 17-23-039, § 182-513-1380, filed 11/8/17, effective 1/1/18. 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, § 182-513-1380, filed 1/17/17, effective 2/17/17. WSR 13-01-017, recodified as WAC 182-513-1380, 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, § 388-513-1380, 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, and Deficit Reduction Act of 2005, 42 C.F.R. Section 435. WSR 09-07-037, § 388-513-1380, filed 3/10/09, effective 4/10/09. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.530. WSR 08-13-072, § 388-513-1380, filed 6/16/08, effective 7/17/08. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530, and 2006 c 372. WSR 07-19-126, § 388-513-1380, filed 9/19/07, effective 10/20/07; WSR 07-01-072, § 388-513-1380, filed 12/18/06, effective 1/18/07. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530 and 2005 c 518 § 207 and Sec. 1924 Social Security Act (42 U.S.C. 1396r-5). WSR 06-07-144, § 388-513-1380, filed 3/21/06, effective 4/21/06. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 42 U.S.C. 9902(2). WSR 05-07-033, § 388-513-1380, filed 3/9/05, effective 4/9/05. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.575; 2003 1st sp.s. c 28, and section 1924 of the Social Security Act (42 U.S.C. 1396R-5). WSR 04-04-072, § 388-513-1380, filed 2/2/04, effective 3/4/04. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and Section 1924(g) of the Social Security Act. WSR 00-17-058, § 388-513-1380, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 72.36.160, 74.04.050, 74.04.057, 74.08.090, 74.09.500 and Section 1924(g) of the Social Security Act, Section 4715 of the BBA of 1997 (Public Law 105-33, HR 2015). WSR 99-11-017, § 388-513-1380, filed 5/10/99, effective 6/10/99. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 43.20B.460, 11.92.180, and Section 1924 (42 U.S.C. 396r-5). WSR 98-08-077, § 388-513-1380, filed 3/31/98, effective 4/1/98. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530 and Social Security Act, Federal Register, March 10, 1997, pgs. 10856 - 10859, 42 U.S.C. 1396 (a)(1)(m). WSR 97-16-008, § 388-513-1380, filed 7/24/97, effective 7/24/97. Statutory Authority: RCW 74.08.090 and Title XIX State Agency Letter 95-44. WSR 96-09-033 (Order 3963), § 388-513-1380, filed 4/10/96, effective 5/11/96. Statutory Authority: RCW 74.08.090. WSR 95-11-045 (Order 3848), § 388-513-1380, filed 5/10/95, effective 6/10/95. Statutory Authority: RCW 74.08.090 and Title XIX State Agency Letter 94-49, notice of increase in SSI level. WSR 95-05-022 (Order

3832), § 388-513-1380, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 74.08.090. WSR 94-10-065 (Order 3732), § 388-513-1380, filed 5/3/94, effective 6/3/94. Formerly WAC 388-95-360.]