



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Social and Health Services, Aging and Disability Services Administration

Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

Immediately upon filing.
 Later

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: DSHS is amending WAC 388-106-0225 and 388-515-1505 as follows:

- Increasing the personal needs allowance allowed in alternate living facilities (boarding homes and adult family homes) by 3.3% effective 7/1/2008. This increase does not apply to state funded general assistance personal needs allowance grants.
- Changing the personal needs allowance allowed for Medicaid Personal Care in alternate living facilities to match the HCS CN Waiver PNA amount of \$62.79. The new PNA amount includes the \$20 disregard. This change is effective 1/1/2009.
- Removing references to the Medicare/Medicaid Integration Project (MMIP), as this program will be phased out in 2008.
- Clarifying in WAC 388-515-1505 that clients on Waiver services in a residential setting contribute up to the state rate of the cost of care as long as there is eligibility for the Waiver service.
- DSHS is clarifying WAC 388-106-0225 to state that a GA-X, GA-D, or GA-A client in an adult family home, receiving a \$339 grant, is allowed to keep a PNA of thirty-eight dollars and eighty-four cents per month. The remainder of the grant must be paid to the adult family home as room and board. A GA-X, GA-D, or GA-A client residing in all other residential facilities (boarding homes) receive a GA-X, GA-D, or GA-A grant of \$38.84.

DSHS is adopting new WAC 388-515-1506 through 388-515-1509 to break up WAC 388-515-1505 for clarity and readability.

Citation of existing rules affected by this order:

Repealed: None
Amended: WAC 388-515-1505; 388-106-0225
Suspended: None

Statutory authority for adoption: RCW 74.04.050; 74.04.057; 74.08.090; 74.09.500; and 74.09.530

Other authority: Washington State 2007-09 Operating Budget (Substitute House Bill 1128)

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR **08-19-101** on September 17, 2008.

Describe any changes other than editing from proposed to adopted version: N/A

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted:

October 27, 2008

NAME (TYPE OR PRINT)

Stephanie Schiller

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 03, 2008

TIME: 12:24 PM

WSR 08-22-052

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u> </u>	Amended	<u> </u>	Repealed	<u> </u>
Federal rules or standards:	New	<u> </u>	Amended	<u> </u>	Repealed	<u> </u>
Recently enacted state statutes:	New	<u> </u>	Amended	<u> 2 </u>	Repealed	<u> </u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u> </u>	Amended	<u> </u>	Repealed	<u> </u>
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The number of sections adopted in the agency's own initiative:

New	<u> </u>	Amended	<u> </u>	Repealed	<u> </u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u> 4 </u>	Amended	<u> </u>	Repealed	<u> </u>
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The number of sections adopted using:

Negotiated rule making:	New	<u> </u>	Amended	<u> </u>	Repealed	<u> </u>
Pilot rule making:	New	<u> </u>	Amended	<u> </u>	Repealed	<u> </u>
Other alternative rule making:	New	<u> 4 </u>	Amended	<u> 2 </u>	Repealed	<u> </u>

AMENDATORY SECTION (Amending WSR 08-11-047, filed 5/15/08, effective 6/15/08)

WAC 388-106-0225 How do I pay for MPC? (1) If you live in your own home, you do not participate toward the cost of your personal care services.

(2) If you live in a residential facility and are:

(a) An SSI beneficiary who receives only SSI income, you only pay for board and room. You are allowed to keep a personal needs allowance of forty-one dollars and ((twelve)) forty-four cents per month. Effective January 1, 2009 this amount will change to sixty-two dollars and seventy-nine cents;

(b) An SSI beneficiary who receives SSI and ((SSA benefits)) another source of income, you only pay for board and room. You are allowed to keep a personal needs allowance of forty-one dollars and ((twelve)) forty-four cents. You keep an additional twenty dollars ((disregard)) from non-SSI income. Effective January 1, 2009 this amount will change to sixty-two dollars and seventy-nine cents. This new amount includes the twenty dollar disregard;

(c) An SSI-related person under WAC 388-475-0050, you may be required to participate towards the cost of your personal care services in addition to your board and room if your financial eligibility is based on the facility's state contracted rate described in WAC 388-513-1305. You are allowed to keep a personal needs allowance of forty-one dollars and ((twelve)) forty-four cents. You keep an additional twenty dollars ((disregard)) from non-SSI income. Effective January 1, 2009 this amount will change to sixty-two dollars and seventy-nine cents. This new amount includes the twenty dollar disregard; or

(d) A ((GA-X)) general assistance client eligible for categorically needy Medicaid coverage in ((a residential care facility)) an adult family home (AFH), you are allowed to keep a personal needs allowance (PNA) of ((only)) thirty-eight dollars and eighty-four cents per month. The remainder of your ((grant)) income must be paid to the ((facility)) AFH as your room and board up to the ADSA room and board standards.

(e) A general assistance client eligible for categorically needy Medicaid coverage in a boarding home, you are authorized a personal needs grant of up to thirty-eight dollars and eighty-four cents per month.

(f) Personal needs allowance (PNA) standards and the ADSA room and board standard can be found at <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/ltcstandardsPNAchartsfile.shtml>.

(3) The department pays the residential care facility from the first day of service through the:

(a) Last day of service when the Medicaid resident dies in the facility; or

(b) Day of service before the day the Medicaid resident is discharged.

WAC 388-515-1505 (~~(Financial eligibility requirements for long-term care services under COPEs, New Freedom, PACE, MMIP, and WMIP)) Long-term care home and community based services and hospice.~~ (1) ~~((This section describes the financial eligibility requirements and the rules used to determine a client's participation in the total cost of care for home or community-based long-term care (LTC) services provided under the following programs:~~

~~(a) Community options program entry system (COPEs);~~
~~(b) Program of all-inclusive care for the elderly (PACE);~~
~~(c) Medicare/Medicaid integration project (MMIP);~~
~~(d) Washington Medicaid integration partnership (WMIP);~~
~~(e) New Freedom consumer directed services (New Freedom); and~~
~~(f) Hospice services for clients not in a medical institution with gross income at or below the SIL and not eligible for another CN or MN Medicaid program.~~

~~(2) To be eligible, a client must:~~

~~(a) Meet the program and age requirements for the specific program, as follows:~~

- ~~(i) COPEs, per WAC 388-106-0310;~~
- ~~(ii) PACE, per WAC 388-106-0705;~~
- ~~(iii) MMIP waiver services, per WAC 388-106-0725;~~
- ~~(iv) WMIP waiver services, per WAC 388-106-0750;~~
- ~~(v) New Freedom, per WAC 388-106-1410; or~~
- ~~(vi) Hospice, per chapter 388-551 WAC.~~

~~(b) Meet the aged, blind or disability criteria of the Supplemental Security Income (SSI) program as described in WAC 388-475-0050(1);~~

~~(c) Require the level of care provided in a nursing facility as described in WAC 388-106-0355;~~

~~(d) Be residing in a medical facility as defined in WAC 388-500-0005, or likely to be placed in one within the next thirty days in the absence of home or community-based LTC services provided under one of the programs listed in subsection (1) of this section;~~

~~(e) Have attained institutional status as described in WAC 388-513-1320;~~

~~(f) Be determined in need of home or community-based LTC services and be approved for a plan of care as described in subsection (2)(a);~~

~~(g) Be able to live at home with community support services and choose to remain at home, or live in a department-contracted:~~

- ~~(i) Enhanced adult residential care (EARC) facility;~~
- ~~(ii) Licensed adult family home (AFH); or~~
- ~~(iii) Assisted living (AL) facility.~~

~~(h) Not be subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1363, 388-513-1364, 388-513-1365 and 388-513-1366; and~~

~~(i) Meet the resource and income requirements described in subsections (3), (4), and (5) or be an SSI beneficiary not subject to a penalty period as described in subsection (2)(h).~~

~~(3) Refer to WAC 388-513-1315 for rules used to determine countable resources, income and eligibility standards.~~

~~(4) Excess resources are reduced in an amount equal to medical expenses incurred by the institutional client as described in WAC 388-513-1350 and:~~

~~(a) Must result in countable resources being at or below the resource standard in WAC 388-513-1350(1).~~

~~(b) If remaining resources are over the standard, the client is ineligible.~~

~~(5) Nonexcluded income must be at or below the SIL (300% of the federal benefit rate (FBR)) and is allocated in the following order:~~

~~(a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;~~

~~(b) Maintenance and personal needs allowances as described in subsection (7), (8), (9), (10), and (11) of this section;~~

~~(c) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-79 WAC;~~

~~(d) Income garnished for child support or withheld according to a child support order in the month of the garnishment (for current and back support):~~

~~(i) For the time period covered by the PNA; and~~

~~(ii) Is not counted as the child's income when determining the family allocation amount.~~

~~(e) Monthly maintenance needs allowance for the community spouse not to exceed that in WAC 388-513-1380 (5)(b) unless a greater amount is allocated as described in subsection (6) of this section. This amount:~~

~~(i) Is allowed only to the extent that the client's income is made available to the community spouse; and~~

~~(ii) Consists of a combined total of both:~~

~~(A) One hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and~~

~~(B) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for the community spouse's principal residence. These expenses are:~~

~~(I) Rent;~~

~~(II) Mortgage;~~

~~(III) Taxes and insurance;~~

~~(IV) Any maintenance care for a condominium or cooperative;~~
and

~~(V) The food assistance standard utility allowance (for LTC services this is set at the standard utility allowance (SUA) for a four-person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative;~~

~~(VI) LESS the standard shelter allocation. This standard is based on thirty percent of one hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and~~

~~(VII) Is reduced by the community spouse's gross countable income.~~

~~(f) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse based on the living arrangement of the dependent. If the dependent:~~

~~(i) Resides with the community spouse, the amount is equal to one-third of the community spouse income allocation as described in WAC 388-513-1380 (5)(b)(i)(A) that exceeds the dependent family member's income;~~

~~(ii) Does not reside with the community spouse, the amount is equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members.~~

~~(iii) Child support received from a noncustodial parent is the child's income;~~

~~(g) Medical expenses incurred by the client and not used to reduce excess resources. Allowable medical expenses and reducing excess resources are described in WAC 388-513-1350.~~

~~(6) The amount allocated to the community spouse may be greater than the amount in subsection (5)(e) only when:~~

~~(a) A court enters an order against the client for the support of the community spouse; or~~

~~(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.~~

~~(7) A client who receives SSI, and lives at home as defined in WAC 388-106-0010 does not use income to participate in the cost of personal care.~~

~~(8) A client who receives SSI and lives in an enhanced adult residential center (EARC), adult family home (AFH) or assisted living (AL) does not use income to participate in the cost of personal care and:~~

~~(a) Retains a personal needs allowance (PNA) of sixty dollars and seventy-eight cents; and~~

~~(b) Uses income to pay the facility for the cost of room and board.~~

~~(c) Room and board is the SSI FBR minus sixty dollars and seventy-eight cents.~~

~~(9) A client who is eligible to receive CN-P Medicaid described in WAC 388-475-0100 (2)(a) and (b) and lives at home, defined in WAC 388-106-0010, does not use income to participate in the cost of personal care.~~

~~(10) A client who is eligible to receive CN-P Medicaid described in WAC 388-475-0100 (2)(a) and (b) and lives in an EARC, AFH or AL does not use income to participate in the cost of personal care and:~~

~~(a) Retains a personal needs allowance (PNA) of sixty dollars and seventy-eight cents; and~~

~~(b) Uses income to pay the facility for the cost of room and board.~~

~~(c) Room and board is the SSI FBR minus sixty dollars and seventy-eight cents.~~

~~(11) An institutionalized SSI-related client living:~~

~~(a) At home, retains a maintenance needs amount equal to the following:~~

~~(i) Up to one hundred percent of the one-person FPL, if the client is:~~

~~(A) Single; or~~

~~(B) Married, and is:~~

~~(I) Not living with the community spouse; or~~

~~(II) Whose spouse is receiving long-term care (LTC) services outside of the home.~~

~~(ii) Up to one hundred percent of the one-person FPL for each client, if both spouses are receiving COPES, New Freedom, PACE, MMIP, or WMIP services;~~

~~(iii) Up to the one-person medically needy income level (MNIL) for a married client who is living with a community spouse who is not receiving COPES, New Freedom, PACE, MMIP, or WMIP.~~

~~(b) In an EARC, AFH, or AL, retains a maintenance needs amount equal to the SSI FBR and:~~

~~(i) Retains a personal needs allowance (PNA) of sixty dollars and seventy-eight cents from the maintenance needs; and~~

~~(ii) Pays the remainder of the maintenance needs to the facility for the cost of room and board. (Refer to subsection (14) in this section for allocation of the balance of income remaining over maintenance needs.)~~

~~(12) A client who is eligible for the general assistance expedited Medicaid disability (GAX) program does not participate in the cost of personal care. When such a client lives:~~

~~(a) At home, the client retains the cash grant amount authorized under the general assistance program;~~

~~(b) In an AFH, the client retains a PNA of thirty-eight dollars and eighty-four cents, and pays remaining income and GAX grant to the facility for the cost of board and room; or~~

~~(c) In an EARC or AL, the client only receives a PNA of thirty-eight dollars and eighty-four cents and retains it.~~

~~(13) The total of the following amounts cannot exceed the SIL:~~

~~(a) Maintenance and personal needs allowances as described in subsections (7), (8), (9), (10), (11), and (12).~~

~~(b) Earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income in subsection (5)(a); and~~

~~(c) Guardianship fees and administrative costs in subsection (5)(c).~~

~~(14) The client's remaining income after the allocations described in subsections (5) through (12) is the client's responsibility in the cost of care)) This chapter describes the general and financial eligibility requirements for categorically needy (CN) home and community based (HCB) services administered by home and community services (HCS) and hospice services administered by health and recovery services administration (HRSA).~~

~~(2) The HCB service programs are:~~

~~(a) Community options program entry system (COPES);~~

~~(b) Program of all-inclusive care for the elderly (PACE);~~

~~(c) Washington Medicaid integration partnership (WMIP); or~~

~~(d) New Freedom consumer directed services (New Freedom).~~

~~(3) Roads to community living (RCL) services. For RCL services this chapter is used only to determine your cost of care. Medicaid eligibility is guaranteed for three hundred sixty-five days upon discharge from a medical institution.~~

~~(4) Hospice services if you don't reside in a medical institution and:~~

~~(a) Have gross income at or below the special income level (SIL); and~~

~~(b) Aren't eligible for another CN or medically needy (MN) Medicaid program.~~

~~(5) WAC 388-515-1506 describes the general eligibility requirements for HCS CN waivers.~~

(6) WAC 388-515-1507 describes eligibility for waiver services when you are eligible for Medicaid using noninstitutional CN rules.

(7) WAC 388-515-1508 describes the initial financial eligibility requirements for waiver services when you are not eligible for noninstitutional CN Medicaid described in WAC 388-515-1507(1).

(8) WAC 388-515-1509 describes the rules used to determine your responsibility in the cost of care for waiver services if you are not eligible for Medicaid under a CN program listed in WAC 388-515-1507(1). This is also called client participation or post eligibility.

NEW SECTION

WAC 388-515-1506 What are the general eligibility requirements for home and community based (HCB) services and hospice?

(1) To be eligible for home and community based (HCB) services and hospice you must:

(a) Meet the program and age requirements for the specific program:

(i) COPES, per WAC 388-106-0310;

(ii) PACE, per WAC 388-106-0705;

(iii) WMIP waiver services, per WAC 388-106-0750;

(iv) New Freedom, per WAC 388-106-1410;

(v) Hospice, per chapter 388-551 WAC; or

(vi) Roads to community living (RCL), per WAC 388-106-0250, 388-106-0255 and 388-106-0260.

(b) Meet the disability criteria for the supplemental security income (SSI) program as described in WAC 388-475-0050;

(c) Require the level of care provided in a nursing facility described in WAC 388-106-0355;

(d) Be residing in a medical institution as defined in WAC 388-500-0005, or likely to be placed in one within the next thirty days without HCB services provided under one of the programs listed in subsection (1)(a);

(e) Have attained institutional status as described in WAC 388-513-1320;

(f) Be determined in need of services and be approved for a plan of care as described in subsection (1)(a);

(g) Be able to live at home with community support services and choose to remain at home, or live in a department-contracted:

(i) Enhanced adult residential care (EARC) facility;

(ii) Licensed adult family home (AFH); or

(iii) Assisted living (AL) facility.

(h) Not be subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1363 through 388-513-1366;

(i) Not have a home with equity in excess of the requirements described in WAC 388-513-1350.

(2) Refer to WAC 388-513-1315 for rules used to determine countable resources, income, and eligibility standards for long-term care services.

(3) Current income and resource standard charts are located
a t :
<http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.html>.

NEW SECTION

WAC 388-515-1507 What are the financial requirements for home and community based (HCB) services when you are eligible for a noninstitutional categorically needy (CN) Medicaid program? (1)

You are eligible for Medicaid under one of the following programs:

(a) Supplemental security income (SSI) eligibility described in WAC 388-474-0001. This includes SSI clients under 1619B status;

(b) SSI-related CN Medicaid described in WAC 388-475-0100(2)(a) and (b);

(c) General assistance expedited Medicaid disability (GAX) or general assistance based on aged/blind/disabled criteria described in WAC 388-505-0110(6) and are receiving CN Medicaid.

(2) You are not subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1363 through 388-513-1366. This does not apply to PACE or hospice services.

(3) You do not have a home with equity in excess of the requirements described in WAC 388-513-1350.

(4) You do not have to meet the initial eligibility income test of having gross income at or below the special income level (SIL).

(5) You do not pay (participate) toward the cost of your personal care services.

(6) If you live in a department contracted facility listed in WAC 388-515-1506(1)(g), you pay room and board up to the ADSA room and board standard. The ADSA room and board standard is based on the federal benefit rate (FBR) minus the current personal needs allowance (PNA) for HCS CN waivers in an alternate living facility.

(a) If you live in an assisted living (AL) facility, enhanced adult residential center (EARC), or adult family home (AFH) you keep a PNA of sixty-two dollars and seventy-nine cents and use your income to pay up to the room and board standard.

(7) If you are eligible for general assistance expedited Medicaid disability (GAX) or general assistance based on aged/blind/disabled criteria described in WAC 388-505-0110(6), you do not participate in the cost of personal care and you may keep the following:

(a) When you live at home, you keep the cash grant amount authorized under the general assistance program;

(b) When you live in an AFH, you keep a PNA of thirty-eight dollars and eighty-four cents, and pay any remaining income and general assistance grant to the facility for the cost of room and board up to the ADSA room and board standard; or

(c) When you live in an assisted living facility or enhanced adult residential center, you are only eligible to receive a cash grant of thirty-eight dollars and eighty-four cents, which you keep

for your PNA.

(8) Current resource and income standards are located at:
<http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(9) Current PNA and ADSA room and board standards are located at:
<http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/ltcstandardsPNAchartsubfile.shtml>.

NEW SECTION

WAC 388-515-1508 How does the department determine if you are financially eligible for home and community based (HCB) services and hospice if you are not eligible for Medicaid under a categorically needy (CN) program listed in WAC 388-515-1507(1)?

(1) If you are not eligible for Medicaid under a categorically needy (CN) program listed in WAC 388-515-1507(1), the department must determine your eligibility using institutional Medicaid rules. This section explains how you may qualify using institutional Medicaid rules.

(2) You must meet the general eligibility requirements described in WAC 388-513-1315 and 388-515-1506.

(3) You must meet the following resource requirements:

(a) Resource limits described in WAC 388-513-1350.

(b) If you have resources over the standard allowed in WAC 388-513-1350, the department reduces resources over the standard by your unpaid medical expenses described in WAC 388-513-1350(d), (e) and (f) if you verify these expenses.

(4) Your gross nonexcluded income must be at or below the special income level (SIL) which is three hundred percent of the federal benefit rate (FBR).

(5) The department follows the rules in WAC 388-515-1325, 388-513-1330, and 388-513-1340 to determine available income and income exclusions.

(6) Current resource and income standards (including the SIL and FBR) for long-term care are found at:
<http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

NEW SECTION

WAC 388-515-1509 How does the department determine how much of my income I must pay towards the cost of my care if I am only eligible for home and community based (HCB) services under WAC 388-515-1508? If you are only eligible for Medicaid under WAC 388-515-1508, the department determines how much you must pay based upon the following:

(1) If you are single and living at home as defined in WAC

388-106-0010, you keep all your income up to the federal poverty level (FPL) for your personal needs allowance (PNA).

(2) If you are married living at home as defined in WAC 388-106-0010, you keep all your income up to the medically needy income level (MNIL) for your PNA.

(3) If you live in an assisted living (AL) facility, enhanced adult residential center (EARC), or adult family home (AFH), you:

(a) Keep a PNA from your gross nonexcluded income. The PNA is sixty-two dollars and seventy-nine cents effective July 1, 2008; and

(b) Pay for your room and board up to the ADSA room and board standard.

(4) In addition to paying room and board, you may also have to pay toward the cost of personal care. This is called your participation. Income that remains after the PNA and any room and board deduction is reduced by allowable deductions in the following order:

(a) If you are working, the department allows an earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income.

(b) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-79 WAC;

(c) Current or back child support garnished or withheld from your income according to a child support order in the month of the garnishment if it is for the current month. If the department allows this as deduction from your income, the department will not count it as your child's income when determining the family allocation amount;

(d) A monthly maintenance needs allowance for your community spouse not to exceed that in WAC 388-513-1380(5)(b) unless a greater amount is allocated as described in subsection (e) of this section. This amount:

(i) Is allowed only to the extent that you make your income available to your community spouse; and

(ii) Consists of a combined total of both:

(A) One hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1 (<http://aspe.os.dhhs.gov/poverty/>); and

(B) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for your community spouse's principal residence. These expenses are determined in the following manner:

(I) Rent, including space rent for mobile homes, plus;

(II) Mortgage, plus;

(III) Taxes and insurance, plus;

(IV) Any required payments for maintenance care for a condominium or cooperative, minus;

(V) The food assistance standard utility allowance (SUA) (for long-term care services this is set at the standard utility allowance for a four-person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative, minus;

(VI) The standard shelter allocation. This standard is based on thirty percent of one hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1

(<http://aspe.os.dhhs.gov/poverty>).

(e) Is reduced by your community spouse's gross countable income.

(f) The amount allocated to the community spouse may be greater than the amount in subsection (d)(ii) only when:

(i) There is a court order approving the higher amount for the support of your community spouse; or

(ii) A hearing officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(g) A monthly maintenance needs amount for each minor or dependent child, dependent parent, or dependent sibling of your community or institutional spouse. The amount the department allows is based on the living arrangement of the dependent. If the dependent:

(i) Resides with your community spouse, the amount is equal to one-third of the community spouse allocation as described in WAC 388-513-1380(5)(b)(i)(A) that exceeds the dependent family member's income (child support received from a noncustodial parent is considered the child's income);

(ii) Does not reside with the community spouse, the amount is equal to the MNIL based on the number of dependent family members in the home less their separate income (child support received from a noncustodial parent is considered the child's income).

(h) Your unpaid medical expenses which have not been used to reduce excess resources. Allowable medical expenses are described in WAC 388-513-1350.

(i) The total of the following deductions cannot exceed the SIL (three hundred percent of the FBR):

(i) Personal needs allowance in subsections (1), (2) and (3)(a) and (b); and

(ii) Earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income in subsection (4)(a); and

(iii) Guardianship fees and administrative costs in subsection (4)(b).

(5) You must pay your provider the combination of the room and board amount and the cost of personal care services after all allowable deductions.

(6) You may have to pay third party resources described in WAC 388-501-0200 in addition to the room and board and participation. The combination of room and board, participation, and third party resources is the total amount you must pay.

(7) Current income and resource standards for long-term care (including SIL, MNIL, FPL, FBR) are located at: <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(8) If you are in multiple living arrangements in a month (an example is a move from an adult family home to a home setting on HCB services), the department allows you the highest PNA available based on all the living arrangements and services you have in a month.

(9) Current PNA and ADSA room and board standards are located at: <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/ltcstandardsPNAchartsfile.shtml>.

