



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:

The department is amending rules in Chapter 388-515 WAC, Alternate living – institutional medical, to incorporate the \$20 disregard and increase the personal needs allowance (PNA) from \$41.44 to \$62.79 to match Home and Community Services categorically needy (CN) waiver programs.

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 388-515-1512; 388-515-1514
 Suspended: None

Statutory authority for adoption: RCW 74.04.050; 74.04.057; 74.08.090; 74.09.575; 74.09.500; 74.09.530

Other authority: N/A

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR **08-21-145** on October 21, 2008.(date)
 Describe any changes other than editing from proposed to adopted version: None.

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:

November 25, 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: December 01, 2008
 TIME: 9:51 AM

WSR 08-24-069

**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	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

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

New	___	Amended	___	Repealed	___
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The number of sections adopted in the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>2</u>	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___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	Repealed	___

AMENDATORY SECTION (Amending WSR 08-11-083, filed 5/20/08, effective 6/20/08)

WAC 388-515-1512 What are the financial requirements if I am eligible for Medicaid under the noninstitutional categorically needy program (CN-P). (1) You automatically meet income and resource eligibility for DDD waiver services if you are eligible for Medicaid under a categorically needy program (CN-P) 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. These clients have Medicaid eligibility determined and maintained by the Social Security Administration;

(b) Healthcare for workers with disabilities (HWD) described in WAC 388-475-1000 through 388-475-1250;

(c) SSI-related CN-P Medicaid described in WAC 388-475-0100 (2)(a) and (b) or meets the requirements in WAC 388-475-0880 and is CN-P eligible after the income disregards have been applied;

(d) CN-P Medicaid for a child as described in WAC 388-505-0210 (1), (2), (7) or (8); or

(e) General assistance expedited Medicaid disability (GA-X) or general assistance based on aged/blind/disabled criteria described in WAC 388-505-0110(6).

(2) If you are eligible for a CN-P Medicaid program listed in subsection (1) above, you do not have to pay (participate) toward the cost of your personal care and/or habilitation services.

(3) If you are eligible for a CN-P Medicaid program listed in subsection (1) above, you do not need to meet the initial eligibility income test of gross income at or below the special income level (SIL), which is three hundred percent of the federal benefit rate (FBR).

(4) If you are eligible for a CN-P Medicaid program listed in subsection (1), you pay up to the ADOSA room and board standard described in WAC 388-515-1505. Room and board and long-term care standards are located at <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(a) If you live in an ARC, AFH or DDD group home, you keep a personal needs allowance (PNA) and use your income to pay up to the ADOSA room and board standard. (~~The PNA from July 1, 2007 through June 30, 2008 is forty dollars and twelve cents.~~) Effective ~~(July)~~ January 1, ((2008)) 2009 the PNA ~~((increases to forty-one dollars and forty-four))~~ is sixty-two dollars and seventy-nine cents.

~~((b) If you receive non-SSI income, you may keep up to an additional twenty dollars.))~~

(5) If you are eligible for a premium based Medicaid program such as healthcare for workers with disabilities (HWD), you must continue to pay the Medicaid premium to remain eligible for that CN-P program.

WAC 388-515-1514 How does the department determine how much of my income I must pay towards the cost of my care if I am not eligible for Medicaid under a categorically needy program (CN-P) listed in WAC 388-515-1512(1)? If you are not eligible for Medicaid under a categorically needy program (CN-P) listed in WAC 388-515-1512(1), the department determines how much you must pay based upon the following:

(1) If you are an SSI-related client living at home as defined in WAC 388-106-0010, you keep all your income up to the SIL (three hundred percent of the FBR) for your personal needs allowance (PNA).

(2) If you are an SSI-related client and you live in an ARC, AFH or DDD group home, you:

(a) Keep a personal needs allowance (PNA) from your gross nonexcluded income. ~~((The PNA from July 1, 2007 through June 30, 2008 is forty dollars and twelve cents.))~~ Effective ~~((July))~~ January 1, ((2008)) 2009 the PNA ~~((increases to forty-one dollars and forty-four cents.~~

~~((b) May keep up to an additional twenty dollars from your nonSSI income))~~ is sixty-two dollars and seventy-nine cents; and

~~((c))~~ (b) Pay for your room and board up to the ADSA room and board rate described in <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(3) Income that remains after the allocation described in (2) above, is reduced by allowable deductions in the following order:

(a) If you are working, we allow 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 from your income or withheld according to a child support order in the month of the garnishment if it is for the current month. If we allow this as deduction from your income, we 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 your income is made 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 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 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 (for long term care 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, 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 1st (<http://aspe.os.dhhs.gov/poverty>); and
- (VII) Is reduced by your community spouse's gross countable income.
 - (iii) May be greater than the amount in subsection (d)(ii) only when:
 - (A) There is a court order approving a higher amount for the support of your community spouse; or
 - (B) A hearing officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.
 - (e) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of your community or institutionalized spouse. The amount we allow 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).
 - (f) Your unpaid medical expenses which have not been used to reduce excess resources. Allowable medical expenses are described in WAC 388-513-1350.
 - (g) The total of the following deductions cannot exceed the SIL (three hundred percent of the FBR):
 - (i) Personal needs allowances in subsection (1) for in home or subsection (2)(a) in a residential setting; and
 - (ii) Earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income in subsection (3)(a); and
 - (iii) Guardianship fees and administrative costs in subsection (3)(b).
 - (4) If you are eligible for general assistance expedited Medicaid disability (GA-X) 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 described in <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>; or

(c) When you live in an ARC or DDD group home, you are only eligible to receive a cash grant of thirty-eight dollars and eighty-four cents which you keep for your PNA.

(5) The combination of the room and board amount and the cost of personal care and/or habilitation services (participation) after all allowable deductions have been considered is called your total responsibility. You pay this amount to the ARC, AFH or DDD group home provider.