

Department of Social and Health Services  
Olympia, Washington

**ELIGIBILITY A to Z MANUAL REVISION (EAZ)**

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Category / Section	<b><u><a href="#">Long-term Care</a></u></b>
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<http://www.dshs.wa.gov/manuals/eaz/sections/LTCIndex.shtml>

Amendments to the institutional Medicaid chapters 388-513 WAC and 388-515 WAC will be final on 11/22/2012. [Complete WAC changes linked here.](#)

Some of these changes are already in place due to current Emergency WACs  
Here is a summary of the changes made in these chapters:

- ❖ Combine categorically needy (CN) and medically needy (MN) Home and Community based Waiver eligibility.
- ❖ Update excess home equity standards and add formula for the increase based on federal standards for 1/2011 and
- ❖ Ongoing and updating the federal utility standard used in spousal deeming.
- ❖ Clarifying reasonable limits for qualifying medical deductions
- ❖ Update links and references based on HB 1738 and HCA Medicaid WACs re-codified under title 182
- ❖ Update references of the former general assistance program to Aged, Blind, Disabled (ABD) cash and medical care services (MCS).
- ❖ Add language to the Hardship Waiver WAC to include transfers between registered domestic partners or legally married same-sex couples.
- ❖ Updated references and adding clarifying language
- ❖ Adding language regarding the Treatment of entrance fees of individuals residing in continuing care retirement communities
- ❖ Medically Needy Income Level (MNIL) references have been changed to match the language in the Health Care Authority (HCA) WAC 182-519-0050 describing the formula for the MNIL standard. The MNIL standard used for Long-term care is described as the effective one-person medically needy income level.

**WAC 388-513-1301 Definitions relating to long-term care (LTC) services.**

Several definitions relating to institutional medicaid have been added to this section.

**WAC 388-513-1305 Determining eligibility for non-institutional medical assistance in an alternate living facility (ALF).** (G03, G95 and G99 program in ACES).

There are no policy changes to this rule, however this rule has been re-written for clarity and to reflect WAC reference changes.

**WAC 388-513-1315 Eligibility for long-term care (institutional, waiver and hospice\_ services.** This WAC is called the LTC roadmap WAC.

In addition to WAC reference updates, this WAC clarifies the Aged Blind Disabled (ABD) cash and Medicare Care Services (MCS) group in addition to the non-citizen state funded LTC service program described in WAC 182-507-0125 that has limited slots needing pre-approval.

**WAC 388-513-1330 Determining available income for legally married couples for long-term care.** This clarifies the name on check rule that is used for married couples.

The only time income is added together and divided by 2 is when it is necessary to meet the Medicaid SIL requirement for eligibility.

**WAC 388-513-1340 Determining excluded income for long-term care (LTC) services** Adds:

- ❖ EITC is excluded for twelve months after the month of receipt;
- ❖ Payments made under the Energy Employee Occupational Compensation Program Act of 2000, (EEOICPA) Pub. L. 106-398;
- ❖ Clarifies VA benefits designation in (30) and (31).

**WAC 388-513-1345 Determining disregarded income for Institutional or hospice services under the medically needy (MN) program.**

- ❖ Clarifies VA benefits designated for a dependent (3) (a)
- ❖ Clarifies when VA benefits are considered a third-party resource for individuals receiving long-term care services.

**WAC 388-513-1350 Defining the resource standard and determining resource eligibility for long-term care (LTC) services.**

- ❖ Adds reference to the long-term care partnership (LTCP) that has been in place since 1/1/2012 in WAC 388-513-1400
- ❖ Clarifies the exceptions for LTC in (8) (a). The reference to WAC 388-475-0550 (16) (referencing spouse pension funds) has been incorrect due to changes in the SSI related chapters. We have included the language as to what type of pension funds of the spouse are not excluded rather than the reference since it is specific to long-term care Medicaid.
- ❖ Added the formula for the changes in excess home equity.
- ❖ Adds language that the spousal share (in the Community Spouse Resource Allocation (CSRA) is based on countable resources as of the first day of the

month of the current period of institutional status.

**Reasonable limits on allowable medical expenses deductions described in WAC 388-513-1350. This change is in effect for all applications for LTC received on or after 11/22/2012.**

The Centers for Medicare and Medicaid Services approved a state plan amendment (SPA) to impose reasonable limits on medical expense deductions. These limits have been incorporated into rule under WAC 388-513-1350. This affects expenses allowed to reduce excess resources and participation. Chapters 388-515 WAC (HCB Waivers) and WAC 388-513-1380 (Institutional Participation) point to WAC 388-513-1350 as to the medical expenses allowed to reduce participation.

(8) (d) adds language that expenses for nursing facility care are reduced at the state rate for nursing facility care that is owed by the client prior to Medicaid eligibility.

(8) (d) (A) adds language that medical expenses incurred more than three months before the month of application is not an allowable medical deduction.

**Example #1:** Application for LTC is received on 11/25/2012. Applicant entered the nursing facility on 6/4/2012. Applicant is resource eligible for services on 11/1/2012. Applicant is over the resource standard for months prior to 11/1/2012. Applicant has an unpaid NF bill at the private rate incurred since 6/4/2012.

The department will allow a reduction of participation based on the NF state daily rate for months 8/12, 9/12 and 10/12. The department will not allow a reduction of participation for medical bills including the private NF bill owed that were incurred prior to 8/1/2012.

**Example #2** Application for LTC is received on 10/25/2012. Applicant entered the nursing facility on 6/4/2012. Applicant is resource eligible for services on 11/1/2012. Applicant is over the resource standard for months prior to 11/1/2012. Applicant has an unpaid NF bill at the private rate incurred since 6/4/2012.

Since the reasonable limit state plan amendment changes are not effective in rule until 11/22/2012, the department will allow a reduction of participation based on the amount the applicant actually owes to the nursing home back to 6/4/2012.

**WAC 388-513-1363 Evaluating the transfer of assets on or after May 1, 2006 for persons applying for or receiving long-term care (LTC) services.** Adds language into rule of the existing policy regarding the transfer of the home. In section (2) (d) (ii) (C) that in order to meet the requirement regarding a transfer of ownership in the client's home is allowed due to providing verifiable care that enabled the individual to remain in the home. A physician's statement of needed care is needed.

**WAC 388-513-1367 Hardship waivers for long-term care (LTC)**

**services.** Adds language to allow a hardship waiver for transfers between same-sex couples who are married in states and District of Columbia where same-sex marriages are legal or between registered domestic partners as described in chapter 26.60 RCW.

**WAC 388-513-1380 Determining a client's financial participation in the cost of care for long-term care** No policy changes in this WAC other than standard changes and wording changes for clarity. There has been a change of policy regarding allowable medical deductions that point to WAC 388-513-1350. See WAC 388-513-1350 for a review of the changes.

**WAC 388-513-1395 Determining eligibility for institutional or hospice services for individuals living in a medical institution under the medically needy (MN) program.** Clarity changes have been made to describe the L95 and L99 program.

**WAC 388-513-1397 Treatment of entrance fees of individuals residing in continuing care retirement communities.** This is a new section is specific to continuing care retirement communities and how an individual's entrance fee in a continuing care retirement community or life care community is considered a resource. Currently WAC 388-513-1396 describes contracts for clients living in fraternal, religious or benevolent nursing facilities.

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

This WAC has been in emergency status since 4/1/2012 and now in permanent rule. It describes eligibility for individuals that have income over the Medicaid SIL. (Combining the MN and CN Waivers).

**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?** Adds the following text in rule that has been the policy of HCS Waivers: If you are married living at home as defined in WAC 388-106-0010, you keep all your income up to the effective one-person medically needy income level (MNIL) for your PNA if your spouse lives at home with you. If you are married and living apart from your spouse, you're allowed to keep your income up to the FPL for your PNA.

<http://www.dshs.wa.gov/pdf/ms/rpau/103P-12-21-091.pdf>