

Department of Social and Health Services  
Olympia, Washington

**ELIGIBILITY A-Z MANUAL REVISION**

Revision #	<b>628</b>
Category / Section	<b>Long Term Care</b>
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<http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCNwaivedsvcs.shtml>  
Waiver Services-HCS CNP (COPEs/New Freedom/PACE/MMIP and WMIP)

<http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCKparticipation.shtml>  
Determining a client's financial participation in the cost of care for long-term care (LTC) services

Emergency WAC 388-515-1505 and WAC 388-513-1380 has been filed to reflect the 3.3% personal needs allowance increase effective 7/1/2008.

The PNA for an HCS CN Waiver in an alternate living facility has increased from \$60.78 to \$62.79.

The PNA in a medical institution has increased from \$55.45 to \$57.28.

The ADSA room and board rate is \$574.21 effective 7/1/2008.

The personal needs allowance standard chart has been updated:

<http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/ltcstandardsPNAchartsubfile.shtml>

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Emergency WAC changes

Effective 7/1/2008

**WAC 388-515-1505**

[Washington State Register filings since 2003](#)

**Financial eligibility requirements for long-term care services under COPES, New Freedom, PACE, MMIP, and WMIP.**

(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

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(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/>);

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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 hearing 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 two dollars and seventy nine cents; and

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

(c) Room and board is the SSI FBR minus sixty two dollars and seventy nine cents.

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(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 two dollars and seventy nine cents; and

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

(c) Room and board is the SSI FBR minus sixty two dollars and seventy nine cents.

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(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

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(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 ~~two~~ dollars and seventy ~~nine~~ cents from the maintenance needs; and

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(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.

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AMENDATORY SECTION (Amending WSR 07-19-126, filed 9/19/07, effective 10/20/07)

**WAC 388-513-1380 Determining a client's financial participation in the cost of care for long-term care (LTC) services.**

This rule describes how the department allocates income and excess resources when determining participation in the cost of care (the post-eligibility process). The department applies rules described in WAC 388-513-1315 to define which income and resources must be used in this process.

(1) For a client receiving institutional or hospice services in a medical institution, the department applies all subsections of this rule.

(2) For a client receiving waiver services at home or in an alternate living facility, the department applies only those subsections of this rule that are cited in the rules for those programs.

(3) For a client receiving hospice services at home, or in an alternate living facility, the department applies rules used for the community options program entry system (COPES) for hospice applicants with income under the Medicaid special income level (SIL) (300% of the federal benefit rate (FBR)), if the client is not otherwise eligible for another noninstitutional categorically needy Medicaid program. (Note: For hospice applicants with income over the Medicaid SIL, medically needy Medicaid rules apply.)

(4) The department allocates nonexcluded income in the following order and the combined total of (4) (a), (b), (c), and (d)

cannot exceed the medically needy income level (MNIL):

(a) A personal needs allowance (PNA) of:

(i) One hundred sixty dollars for a client living in a state veterans' home;

(ii) Ninety dollars for a veteran or a veteran's surviving spouse, who receives the ninety dollar VA improved pension and does

not live in a state veterans' home; or

(iii) Forty-one dollars and sixty-two cents for all clients in a medical institution receiving general assistance.

(iv) Effective July 1, 2007, through June 30, 2008 fifty-five dollars and forty-five

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cents for all other clients in a medical institution.

Effective July 1, 2008 this PNA increases to Fifty-seven dollars and twenty-eight cents.

(v) Current PNA and long-term care standards can be found at <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstan>

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dardspna.shtml.

(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 as described in WAC ((388-503-0510(1))) 388-475-0050(1); and

(ii) Receives the wages as part of a 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, after June 15, 1998, only as allowed by chapter 388-79 WAC.

(5) The department allocates nonexcluded income after deducting amounts described in subsection (4) in the following order:

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

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

[ 6 ] SHS-3935.4

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

(b) A monthly maintenance needs allowance for the community spouse not to exceed, effective January 1, ((2007)) 2008, two thousand ((five)) six hundred ((forty-one)) ten dollars, unless a greater amount is allocated as described in subsection (7) of this

section. The community spouse maintenance allowance is increased each January based on the consumer price index increase (from September to September, <http://www.bls.gov/cpi/>). Starting January

1, 2008 and each year thereafter the community spouse maintenance allocation can be found in the long-term care standards chart at <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>. The monthly maintenance needs allowance:

(i) 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 as described under subsection (6) of this section.

(ii) Is reduced by the community spouse's gross countable income; and

(iii) Is allowed only to the extent the client's income is made available to the community spouse.

(c) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community spouse or institutionalized person who:

(i) Resides with the community spouse:

(A) In an amount equal to one-third of one hundred fifty percent of the two person federal poverty level less the dependent

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family member's income. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>).

(ii) Does not reside with the community spouse or institutionalized person, in an amount equal to the MNIL for the number of dependent family members in the home less the dependent family member's income.

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

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

(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 is likely to return to the home within the six-month period; and

(iv) When social services staff documents the need for the income exemption.

(6) For the purposes of this section, "excess shelter expenses" means the actual expenses under subsection (6) (b) less the standard shelter allocation under subsection (6) (a). For the purposes of this rule:

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

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

(b) Shelter expenses are the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

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

(v) The food stamp standard utility allowance for four persons, provided the utilities are not included in the maintenance

charges for a condominium or cooperative.

(7) The amount allocated to the community spouse may be greater than the amount in subsection (6) (b) 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.

(8) A client who is admitted to a medical facility for ninety days or less and continues to receive full SSI benefits is not required to use the SSI income in the cost of care for medical services. Income allocations are allowed as described in this section from non-SSI income.

(9) Standards described in this section for long-term care can

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b e f o u n d a t :

<http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

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