

SENIOR BULLETIN: Medicaid

**Alternatives to nursing home care for individuals
with too much income to qualify for COPES**

As of Jul 2006, the personal needs allowance for individuals in the Medically Needy In-home Waiver program increased to \$817 a month.

In Washington State, most long-term care paid for by the State is not provided in nursing homes. Rather, it is provided either in the home of the person in need of care or in an alternative setting such as an adult family home or an assisted-living facility. During April 2006, for example, there were approximately 37,000 individuals receiving publicly funded long-term care in Washington outside of nursing homes; there were approximately 12,000 individuals receiving publicly-funded nursing home care.

The COPES program is the primary alternative to Medicaid-funded nursing-home care; and the non-financial eligibility criteria for Medicaid-funded nursing-home care and for care under the COPES program are the same. But not everyone who is financially eligible for Medicaid-funded nursing home care is financially eligible for COPES.

To be financially eligible for COPES, one must be classified as “categorically needy.” This means that one must (in 2007) have gross monthly income at or below \$1,869. (Married applicants may meet the income-eligibility criterion in either of two ways: [1] if they receive no more than \$1,869 in their name – no matter how much income is received in their spouse’s name – or [2] if the total income of the couple is not more than \$3,738 [twice \$1,869].) Individuals with income above these amounts are classified in Medicaid jargon as “medically needy,” and they are not eligible for COPES.

For medically needy individuals, the State has two programs that are, in many respects, similar to COPES. Like the COPES program, they are administered by the Department of Social & Health Services under an agreement with the federal government that is called a “waiver.” One program covers in-home care and is called the “Medically Needy In-home Waiver” (MNIW) program; the other program covers care in alternative residential care facilities (such as adult family homes and assisted-living

facilities) and is called the “Medically Needy Residential Waiver” (MNRW) program.

The Medically Needy Residential Waiver Program

Program eligibility

Individuals who qualify for MNRW coverage may get care in an alternative residential care facility (such as an adult family home or an assisted-living facility) at the Medicaid rate (generally lower than the private rate), with the State paying part or all of the cost. Facilities are not required to accept residents at the lower rate, so whether or not the program works for a particular individual will depend, among other things, on whether an appropriate facility can be found that will accept a prospective resident at the Medicaid rate. (COPES clients face the same challenge.)

To be eligible for the MNRW program, an applicant must satisfy all the eligibility criteria for the COPES program except for the gross income limit.¹ Additional eligibility criteria for the MNRW program are set forth in WAC 388-515-1540.² Income eligibility is determined by comparing the applicant’s countable income to the facility’s department-contracted rate. Countable income for this purpose is determined by taking the applicant’s gross income and reducing it by the same exclusions and disregards that apply to other institutional Medicaid programs (described in WAC 388-513-1340 and 1345) and by any monthly health-insurance premiums, not including Medicare premiums.

If the applicant’s countable income is less than the department-contracted rate, the applicant will qualify for MNRW without any further expense or “spenddown” requirement. If the income is more than the contracted rate, additional calculations are required. In that case one must deduct the following from the countable monthly income: (1) the personal needs allowance of \$58.84, and (2) any outstanding amount owed on incurred expenses of necessary medical care that was not subject to any third-party payment or reimbursement and that has not previously been used to meet an expense requirement in an earlier month. If what is left is less than the contracted rate, then the applicant will qualify for MNRW without any further spenddown requirement.

If what is left is more than the contracted rate, then the applicant will not qualify for MNRW until he or she has incurred additional medical expenses. The expense or “spenddown” requirement is calculated in much the same way as is the expense requirement for the non-institutional

medically needy (or “spenddown”) program.³ The applicant must choose either a 3-month or a 6-month base period. All countable income in excess of the contracted rate will be considered “excess” income. The excess monthly income is multiplied by 3 or by 6, depending on whether a 3-month or a 6-month base period has been selected. The result is the expense obligation. Once expenses in the amount of the expense obligation have been incurred, the applicant will have satisfied the expense obligation and may be eligible for MNRW coverage for the rest of the base period.

Issues affecting married applicants

The MNRW program does not provide the same protections for the income and resources of the spouse of a program applicant as those provided under the COPES program. However, after the end of the month in which a married applicant moves into a residential facility (without his or her spouse), the applicant is considered to be living separately from his or her spouse, and the non-applicant spouse’s income and resources are not considered in assessing the applicant’s MNRW eligibility. Consequently, after the month of the move, the non-applicant’s income and resources, whatever they may be, are protected.

The Medically Need In-home Waiver Program

Program eligibility

To be eligible for the MNIW program, an applicant must also satisfy all the eligibility criteria for the COPES program except for the gross income limit. Additional eligibility criteria for the MNIW program are set forth in WAC 388-515-1550.⁴ Eligibility is determined by comparing the client’s countable income (as explained in the previous section) to the Medically Needy Income Level, \$623 in 2007, to establish the client’s excess monthly income. (For example, assume that the applicant is a woman with gross income of \$2,000 a month – \$1,000 of Social Security and \$1,000 from a teacher’s pension. She has no health insurance. Her countable income will be \$1,980 a month: \$2,000 gross income less a \$20 disregard. From the \$1,980, she will subtract \$623 to get her monthly excess income of \$1,357.)

Applicants are eligible for the MNIW program if “they have or expect to have medical expenses to offset their excess income.” Those expenses may include the cost of in-home care that they need, according to the Department’s care-needs assessment. When a person applies for

MNIW coverage, a DSHS staff member comes to the applicant's home to do an assessment of his or her needs. After the assessment has been completed, the Department will send an award letter specifying how many hours of care the applicant needs, and how the applicant's income is to be allocated. A personal needs allowance corresponding to the Federal Poverty Level, \$817 in 2006, will be allowed for eligible clients in the allocation process, beginning in July 2006. (This amount will increase on April 1, 2007.)

Hours provided by an individual provider are compensated (under Medicaid) at between \$9.43 and \$10.31 an hour; the actual rate depends on the total number of hours worked as an individual provider since July 1, 2005. Hours provided through an agency are compensated (under Medicaid) at \$15.89 an hour (effective July 1, 2006). (So, continuing with the example given above in which the client had \$1,357 of excess income, assume that the applicant needs 180 hours of care, which will be provided by an agency provider. Multiplying 180 times \$15.89 yields \$2,860.20. This will more than offset her excess income of \$1,357. She will be eligible for MNIW; she will be allowed a personal needs allowance of \$817 and will have to pay \$540 toward the cost of her care.⁵)

Issues affecting married applicants

The MNIW program in its current form will virtually never be of use to a married person who is living with his or her spouse. It does not provide protections for the income and resources of the spouse of a program applicant comparable to those provided under the COPES program. And assuming the married person in need of in-home care is living at home with his or her spouse, the income and resources of the spouse will be taken into account in determining an applicant's eligibility for MNIW services.

Participation in the MNRW and MNIW programs

The MNRW program was initiated in March 2003; the MNIW program was initiated in May 2004. Both programs have legislatively mandated limits on the number of participants who may be served by the program at any one time. For the MNRW program, the limit is 600; for the MNIW program, the limit is 200.

Participation in the MNRW program has been modest; participation in the MNIW program has been negligible. As of April 2006, there were 345 participants in the MNRW program and only 29 participants in the

MNIW program. While a figure for the medically needy nursing home population in that month was not published, the number was likely well over 1,000.⁶ So, most medically needy clients receiving long-term care services were in nursing homes and very few were at home. By contrast, in the categorically needy population (financially eligible for COPES) a majority was at home.

Why are most medically needy long-term-care clients in nursing homes when a majority of categorically needy clients are at home? No single explanation tells the whole story. But there has been a conspicuous difference between the COPES and MNIW programs that is probably significant: COPES clients may keep \$817 as a personal needs allowance (for shelter, food, clothing and other non-medical expenses); by contrast, until July 1, 2006 MNIW clients could only keep \$603 as a personal needs allowance. That was simply not enough. (The COPES personal needs allowance is set by the State, but must satisfy a federal regulation requiring that it be “based on a reasonable assessment of need.” 42 C.F.R. § 435.735[c][1].) MNIW clients have the same needs but their monthly personal needs allowance used to be \$214 less. This has likely pushed otherwise potential applicants out of their homes and into other settings where all their needs are met. Effective July 1, 2006, the personal needs allowance of MNIW clients increased to \$817, the same as the COPES PNA. It is reasonable to hope that the increase will make the MNIW program a plausible option for some people for whom it wasn’t plausible in the past.

Endnotes:

¹ For example, an applicant must be eighteen years old or older, must meet the meet the “SSI related criteria” (relating to disability or age) in WAC 388-511-1105(1) and must require the level of care provided in a nursing facility as described in WAC 388-106-0355.

² Here is a link to the text of WAC 388-515-1540:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=388-515-1540>

³ That program is described in the Columbia Legal Services pamphlet “Medicaid for adults 65 and older or disabled who don’t get SSI.” The pamphlet is available on the web site WashingtonLawHelp.org.

⁴ Here is a link to WAC 388-515-1550:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=388-515-1550>

⁵ Here is a second example in which the cost of care is less than the client's excess income. The client's income is \$2,034. He is single and has no insurance premiums, and his projected cost of care is \$1,371. After disregarding \$20 of income and deducting the \$603 MNIL and the projected cost of care, the client still has \$40 of monthly excess income. He will need to incur \$120 of medical expenses for a 3-month certification period or \$240 for a six-month period before MNIW services can be authorized. Once that expense requirement has been met, income for the remainder of the certification period will be allocated to allow a personal needs allowance of \$817.

⁶ Periodic reports of the number of Medicaid-funded nursing home residents do not break the number down by categorically needy and medically needy individuals. But in materials prepared in 2000 for the legislative proposals that led to the MNRW and MNIW programs, the Department of Social & Health Services reported that there were 1,500 medically needy nursing-home residents.