

WAC 182-512-0770 SSI-related medical—American Indian or Alaska Native excluded income and resources. (1) The agency excludes the following types of income from being considered when determining eligibility for Washington apple health (WAH) categorically needy (CN) and medically needy (MN) SSI-related programs for American Indians or Alaska Natives:

(a) Distributions from Alaska Native corporations and settlement trusts;

(b) Distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the Secretary of the Interior;

(c) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:

(i) Rights of ownership or possession in any lands described in (b) of this subsection; or

(ii) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources.

(d) Distributions resulting from real property ownership interests related to natural resources and improvements that are:

(i) Located on or near a reservation or within the most recent boundaries of a prior federal reservation; or

(ii) Resulting from the exercise of federally protected rights relating to such real property ownership interests.

(e) Payments resulting from:

(i) Ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance; or

(ii) Rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

(f) Student financial assistance provided under the Bureau of Indian Affairs education programs; and

(g) Any other applicable income exclusion as provided by federal law, regulation, or rule.

(2) The agency excludes the following types of resources from being considered when determining eligibility for WAH-CN and WAH-MN SSI-related programs for American Indians or Alaska Natives:

(a) Property, including real property and improvements, that is:

(i) Held in trust, subject to federal restrictions, or otherwise under the supervision of the Secretary of the Interior; and

(ii) Located on a reservation, including any federally recognized Indian tribe's reservation, pueblo, or colony, including:

(A) Former reservations in Oklahoma;

(B) Alaska Native regions established by the Alaska Native Claims Settlement Act; and

(C) Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior.

(b) Property located within the most recent boundaries of a prior federal reservation for any federally recognized tribe not described in (a) of this subsection;

(c) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including, but not limited to, extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish and shellfish) resulting from the exercise of federally protected rights; and

(d) Ownership interests in or usage rights to items not covered in (a), (b), or (c) of this subsection that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

(3) When determining eligibility for WAH-CN and WAH-MN SSI-related programs for American Indians or Alaska Natives, the agency counts or excludes amounts received by tribal members from exercise of gaming revenues (per capita distributions) that are retained after the month of receipt based on the type of resource in which the money is retained. If the amounts are retained in a countable resource (for example, cash, checking account, or savings account), the agency treats the amounts as a countable resource. If the amounts are converted to an excluded resource (for example, personal property like a refrigerator), the agency treats the amounts as excluded resources.

[Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155; 42 U.S.C. Chapter 157. WSR 15-07-065, § 182-512-0770, filed 3/16/15, effective 4/16/15. Statutory Authority: RCW 41.05.021 and Patient Protection and Affordable Care Act (Public Law 111-148), 42 C.F.R. §§ 431, 435, 457 and 45 C.F.R. § 155. WSR 14-07-059, § 182-512-0770, filed 3/14/14, effective 4/14/14.]