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# QUESTIONS AND ANSWERS ON THE COMMUNITY FIRST CHOICE PROGRAM

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SOLID GROUND – BENEFITS LEGAL ASSISTANCE

JULY 2022

*THIS PAMPHLET IS ACCURATE AS OF ITS DATE OF REVISION. THE RULES CHANGE FREQUENTLY.*

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## **1. What is Community First Choice (CFC)?**

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CFC is a Medicaid program offering personal care and other services. The program was established by the Affordable Care Act (ACA) under 1915(k) of the Social Security Act and is administered by the Washington State Department of Social and Health Services (DSHS). Offering personal care and other services under CFC allows DSHS to provide a more extensive benefit package to support clients in community settings. CFC is intended to promote choice, flexibility, and community care over institutional care. For qualified individuals, CFC offers personal care services, skills acquisition training, assistive technology, personal emergency response systems, and a few other services that help clients remain in community settings.

To be eligible, you must meet two types of criteria: (1) financial eligibility and (2) functional eligibility.

You are financially eligible for CFC if you are eligible for categorically needy (CN) or Alternate Benefit Plan (ABP) scope of care in the community. This includes both non-institutional medical coverage groups and CN coverage through a 1915(c) home and community-based waiver. COPES, is the 1915(c) waiver offered by Home and Community Services. The Developmental

Disabilities Administration has five 1915(c) waivers which include Basic Plus, Core, Individual and Family Services, Community Protection, and Children’s Intensive In-home Behavior Support.

To be functionally eligible for CFC authorized by the Aging and Long-Term Support Administration (AL TSA), you must be eligible for the level of care required in a nursing facility as defined in WAC 388-106-0355, which is the same level of care as the COPES program.

To be functionally eligible for CFC authorized by the Developmental Disabilities Administration (DDA), you must be eligible for the level of care required in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) as defined in WAC 388-845-0070, 388-828-3060, and 388-828-3080 or a nursing facility as defined in WAC 388-106-0355.

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## **2. How do I apply for CFC?**

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You can apply for CFC in one of three ways:

- If you are a current Medicaid recipient, contact Home and Community Services for a social service intake. Please see Appendix A for contact information.
- If you are not currently receiving Medicaid, and are under age 65 and not entitled to Medicare, apply online

through the Health Benefit Exchange at [www.wahealthplanfinder.org](http://www.wahealthplanfinder.org)

- If you are not currently receiving Medicaid and are age 65 and older, or on Medicare, apply online at [www.washingtonconnection.org](http://www.washingtonconnection.org) or by submitting a paper application to a local DSHS Home and Community Services (HCS) office.

The website for downloading a paper application [Form HCA 18-005 (3/14) Washington Apple Health Application for Long-Term Care/Aged, Blind, Disabled Coverage] is <http://www.hca.wa.gov/medicaid/forms/Documents/18-005.pdf>. You may also pick up the application form at a DSHS office. A paper application may be returned to PO Box 45826 Olympia, WA 98504 or to your local Home and Community Service (HCS) office. To find the right HCS office, call 1-800-422-3263 or use the online tool to find the HCS office in your county. <https://www.dshs.wa.gov/altsa/resources>

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### **3. How is CFC eligibility determined?**

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As noted in Question 1, there are two parts to eligibility. First, you must be financially eligible for a categorically needy (CN) or an Alternate Benefit Plan (ABP) Medicaid program, as described in [WAC 183-503-0510](#). Second, you must be functionally eligible, which means you need help with certain activities of daily living because of a physical or cognitive impairment. Some examples include help with bathing, dressing, hygiene, and medication management. To determine eligibility and the level of help needed, an in-person assessment and interview is conducted by the department to evaluate your ability to care for yourself.

Under the Affordable Care Act, individuals under age 65 may be eligible for healthcare

benefits based on income, known as Washington Apple Health MAGI Medicaid. MAGI stands for Modified Adjusted Gross Income and is a way for individuals to obtain government-paid healthcare benefits, depending on income.

The CN and ABP benefit package includes CFC services for those eligible. A disability determination is not required for an individual receiving MAGI based coverage.

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### **4. When do CFC services begin?**

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CFC eligibility begins on the date DSHS authorizes the service. It is not retroactive and will not cover services provided before the date of the authorization. You must sign and return a copy of a document called the “Service Summary” in order for your services to continue. This document outlines the services and supports you are receiving. It is your official approval for the services being provided to you.

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### **5. How are income and resources determined for the purpose of CFC?**

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To receive CFC services both your income and your resources must be within set limits. Some CN or ABP programs have no resource test, such as the MAGI programs or Apple Health for Workers with Disabilities (HWD). Most programs based on aged, blind and disability criteria have a \$2,000 resource limit for a single person.

In counting your resources for a month, DSHS essentially takes a snapshot of your resources as of the first moment of the first day of the month. Whatever resources exist at that exact moment are the resources counted. Resources typically include such things as real estate, funds in bank accounts (but not including this month’s income) and stocks. Funds from a payment that counted as income last month will count as resources this month if you still have them as of the

first of this month. Not all resources count for purposes of determining resource eligibility (see Questions 10 through 13 below).

In counting your *income* for a month, DSHS looks at what you *received that month*. Income typically includes such things as Social Security, VA benefits, pension payments, and wages, in the month they are received.

The income and resource standards for Medicaid programs are adjusted yearly and can be found here:

<https://www.hca.wa.gov/health-care-services-supports/program-standard-income-and-resources>

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#### **6. Am I income eligible for the CFC program?**

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If you are an SSI-related person, your countable income must usually be at or below the 1-person categorically needy income level (CNIL), which is \$841 as of January 1, 2022.

If you do not meet the CFC income eligibility rules, you will then be considered under the Home and Community Based (HCB) waiver rules, such as COPES. For eligibility information on the COPES program, see [Questions and Answers on the COPES Program](#), which is available on the website [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

If you are an SSI-related person residing in an Alternate Living Facility (ALF), the income limit is the Medicaid Special Income level which currently is \$2,523. A person residing in an ALF has a higher income standard, but will have to pay towards the cost of care and keep a \$75.36 personal needs allowance.

If you are on a MAGI or HWD program the income levels can be found at:

<https://www.hca.wa.gov/health-care-services-supports/program-standard-income-and-resources>

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#### **7. What level of resources can I have and be eligible for the CFC program?**

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Your countable resources must be at or below \$2,000.00. For those who are receiving CFC personal care services through a MAGI plan or through the HWD program, there is no resource test. See 9. If you have a spouse.

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#### **8. How are my spouse's income and resources considered?**

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Your spouse's income is not counted to determine whether you are financially eligible for CFC. This is due to the extension of Spousal Impoverishment provisions by Congress under the Consolidation Appropriations Act of 2021. This extension ends on 9/30/2023.

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#### **9. How is my spouse's resources considered?**

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Spousal impoverishment provisions apply through 9/30/2023 when one spouse is applying. This means the spouse is allowed a higher resource standard.

Combined resources must be at or below the state resource standard for a married couple which is \$2,000.00 for the applicant and \$59,890 state spousal resource standard for the spouse.

The CFC recipient has one year from eligibility to put resources in excess of \$2,000 in the spouse's name.

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#### **9. Do I have to pay for CFC services?**

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- If you are receiving CFC only, and you live at home, you do not have to pay for your services.
- If you are receiving CFC and HCB waiver services, such as COPES, you may have to pay toward the cost of the

services. The amount you pay is based on your income, marital status, and any allowed deductions. For information on how DSHS determines how much you have to pay, see [Questions and Answers on the COPES Program](#) which is available on the website [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

- If you are receiving CFC only, and live in an alternate living facility (ALF), you pay room and board to the facility.
- If you live in an ALF, and your countable income is above the CNIL for your household size, you are allowed to keep a \$75.36 monthly personal needs allowance and you must pay the facility the remainder of your countable income.

NOTE: If you are a functionally eligible SSI-related person who is working, you should contact your Public Benefit Specialist (PBS) to determine whether the Apple Health for Workers with Disabilities (HWD) program is more beneficial than other SSI-related programs. The HWD program has no income limit and no asset test.

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### **10. When is a home exempt?**

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A home (which may be a house and surrounding land, a condominium or a mobile home) may be an excluded resource. The exclusion applies if the CFC recipient lives in the home, or is temporarily absent but intends to return to it. It also applies as long as the recipient's spouse or, in some cases, a dependent relative, continues to live in the home.

The exemption does not apply to a home in which the CFC recipient has an equity interest of more than \$955,000, unless one of the following exceptions applies: (1) the

recipient is receiving services based on an application for DSHS-administered long-term care services filed before May 1, 2006; or (2) the recipient's spouse or the recipient's child who is under 21 or blind or disabled resides in the home. The disability criteria for this purpose are the same as those used for Social Security Disability determinations.

Even when a home is exempt, a married Medicaid applicant or recipient may wish to transfer his or her interest to their spouse. Such a transfer may be made to prevent future recovery of Medicaid costs from a Medicaid recipient's estate (see Question 15) or to make it easier for the spouse to sell or otherwise dispose of the home. But, such a transfer is not always a good idea. It may, for example, have adverse tax or other consequences in some cases. Before making such a transfer, you should consult with a lawyer familiar with Medicaid rules and estate planning.

**Note: The proceeds from the sale of an exempt home are also exempt if they are used to purchase a new exempt home within three months of receipt.**

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### **11. When is a car exempt?**

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One car is exempt, no matter how much it is worth, if it is used for transportation either for the CFC recipient or for a member of the recipient's household.

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### **12. When can burial funds and burial spaces be exempt?**

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A burial fund of \$1500 for an individual (and an additional \$1500 for a spouse) may be claimed as exempt if set aside in a clearly designated account to cover burial or cremation expenses. If you have a life insurance policy that is claimed as exempt, then the face value of the life insurance will count as part of your burial fund. So, for example, if you have an exempt life insurance

with a face value of \$1000, then only \$500 may be exempted in a designated account for burial expenses.

An irrevocable trust for burial expenses or a pre-paid burial plan may be claimed as exempt as long as it does not exceed reasonably anticipated burial expenses. The value of such a trust or plan will count against the exemption for burial funds or life insurance.

Burial spaces for CFC recipients and immediate family members are exempt no matter how much they are worth.

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**13. When can household goods and personal effects be exempt?**

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Household furniture and other household goods, as well as clothing, jewelry and personal care items are exempt regardless of value.

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**14. Can I transfer resources without affecting CFC eligibility?**

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Transfer of asset rules (which can be found in WAC 182-513-1363) do not apply to a person receiving CFC only. The transfer of an asset may affect eligibility for an HCB waiver (such as COPES), or nursing facility placement, if the transfer is made within 5 years of needing that service. For more information about transfers that may affect eligibility for HCB waiver services or nursing home placement, see

[Questions and Answers on the COPES Program](#) and [Questions and Answers on Medicaid for Nursing Home Residents](#) which are available on the website [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

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**15. Will CFC payments result in a lien or claim against my estate?**

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DSHS may be entitled to recover, from a Medicaid recipient's estate, the amount the State of Washington paid for the recipient's care. Whether or not Medicaid is entitled to recover depends on the type of services you received and the dates when the services were provided to you. See [Estate Recovery for Medical Services Paid for by the State](#) which is available on the website [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

Recovery will be delayed if, at the time of death, you have a surviving spouse, registered domestic partner, or surviving child who is under the age of 21 or blind or disabled.

The DSHS estate recovery claim only applies to property owned at death by a recipient. No claim can be made against property solely owned by a spouse or child. This may be an important reason to consult a lawyer familiar with CFC and Medicaid rules about permissible transfers of property.

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**16. Do I still pay Medicare Part D Co-Payments if I am on CFC? Do I have to pay Medicare Part B monthly premiums, deductible, and co-pays? What about Medicare Part A?**

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If you receive CFC services only, you are still responsible for Medicare Part D co-payments. However, if you are also on an HCB Waiver such as COPES, Medicare D co-payments are waived. Medicare D is the prescription drug part of Medicare. You can ask to receive both CFC and HCB Waiver services. If you are eligible and decide to receive an HCB Waiver service, your Medicare D co-payments will be waived. Your Medicare Part B monthly premiums, Part B co-payments, Part B deductible, Part A deductible, and Part A coinsurance for hospital or nursing home care



are covered or cannot be collected. For more information about why going on COPEs may help you, see [Questions and Answers on the COPEs Program](#) and [Medicare Savings Programs: Help Paying for Medicare Costs](#). Once you are on Medicaid, your Medicare A/B premiums, deductibles, and coinsurance are covered or cannot be collected, but the effective date may vary. If you have questions, you can ask your DSHS Public Benefit Specialist.

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**17. What types of services does CFC provide?**

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When you apply for services, a case manager will be assigned to you and will work with you to individually assess your care needs and discuss your goals and preferences. The case manager will explain the services that you are eligible to receive, and you will choose the services you wish to receive from those available to you.

The CFC program includes the following services:

- Personal care in community-based settings
- Relief care for clients in their own home when a caregiver is out or needs a break
- Skills acquisition training to help people learn to perform their personal care tasks independently
- Personal Emergency Response Systems (PERS) for qualified clients to summon help in case of a fall or an emergency
- Assistive technology items that substitute for human assistance or increase a client’s independence with an Activity of Daily Living (ADL),

Instrumental Activities of Daily Living (IADL), or health-related task.

- Community transition services are available to clients who wish to relocate from a qualified institutional setting, like a skilled nursing facility, an institution for mental disease (IMD) or an intermediate care facility for individuals with intellectual disabilities (ICF/IID), to a community-based setting
- Training on how to select, manage, and dismiss personal care providers

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**18. Can I get help with the application process?**

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Many people need help applying for CFC or Medicaid. Often there are family members or friends, or staff members of a hospital or nursing home or other agency, who are able to help. Help is also available from DSHS staff, especially for people who have physical or mental impairments that make it hard to get through the application process on their own.

If you need help in the application process from DSHS, you or someone else should tell a DSHS representative that you need help. DSHS rules require what are called “necessary supplemental accommodation services” when they are needed. These services include help filling out forms and help finding information or papers you need.

CFC rules are complicated. Before taking steps you don’t understand, you should get individualized legal advice.

PLEASE SEE ATTACHMENT A, PROVIDED BY DSHS, FOR HOW TO REQUEST A LONG-TERM CARE (LTC) ASSESSMENT

CFC 07-2022

**Solid Ground - Benefits Legal Assistance**  
**1501 N. 45<sup>th</sup> St., Seattle, WA 98103**

**Attachment A**

**How to Request a Long-term Care (LTC) Assessment**

Call and schedule an assessment through the HCS Central intake lines. Social Service central intake lines are divided by Regions in the State of Washington. This is used to request a social service assessment for home and community services (in-home care, care in a residential facility, nursing facility coverage).

- Region 1 HCS – Adams, Asotin, Chelan, Colombia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties: 1-866-323-9409 or 509-568-3767, FAX 509-568-3772
- Region 2 North HCS – Island, San Juan, Skagit, Snohomish and Whatcom Counties: 1-800-780-7094 or 425-977-6579, FAX 425-977-6579.
- Region 2 South HCS – King County: 206-341-7750, FAX 206-373-6855
- Region 3 HCS – Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum Counties: 1-800-786-3799, FAX 360-586-0499

You may find also find this information in the Apple Health Manual, Long-term Care Applications: <http://www.hca.wa.gov/free-or-low-cost-health-care/program-administration/applications-ltc>