

**256S.05 ELIGIBILITY.**

Subdivision 1. **Elderly waiver plan eligibility requirements.** In addition to the requirements of this section, applicants and participants must meet all eligibility requirements in the elderly waiver plan.

Subd. 2. **Nursing facility level of care determination required.** Notwithstanding other assessments identified in section 144.0724, subdivision 4, only assessments conducted according to section 256B.0911 that result in a nursing facility level of care determination at initial and subsequent assessments shall be accepted for purposes of a participant's initial and ongoing participation in the elderly waiver and a service provider's access to service payments under this chapter.

Subd. 3. **Maintenance needs allowance.** Notwithstanding section 256B.056, when applying posteligibility treatment of income rules to the gross income of an elderly waiver participant, unless the participant's income is in excess of the special income standard according to Code of Federal Regulations, title 42, section 435.236, the participant's maintenance needs allowance is the sum of the MSA equivalent rate, as defined in section 256I.03, subdivision 11a, plus the medical assistance personal needs allowance, as described in section 256B.35, subdivision 1, paragraph (a). Each participant's maintenance needs allowance must be adjusted each July 1.

Subd. 4. **Spousal impoverishment policies.** For the purposes of eligibility for elderly waiver services, the commissioner shall apply the spousal impoverishment criteria as authorized under United States Code, title 42, section 1396r-5, and as implemented in sections 256B.0575, 256B.058, and 256B.059, except that a participant with income at or below the special income standard according to Code of Federal Regulations, title 42, section 435.236, shall receive the maintenance needs allowance in subdivision 3.

Subd. 5. **Managed care elderly waiver services.** A participant who is enrolled in a managed care organization is not eligible to receive county-administered fee-for-service elderly waiver services.

**History:** 2019 c 54 art 1 s 5; 1Sp2021 c 7 art 6 s 25; 2022 c 98 art 17 s 22; 2023 c 70 art 17 s 62