

**WSR 23-24-005**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-09—Filed November 27, 2023, 9:17 a.m., effective December 28, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the amendments to WAC 220-200-100 and 220-610-010 is to reclassify the Western gray squirrel from threatened to endangered.

Citation of Rules Affected by this Order: Amending WAC 220-200-100 and 220-610-010.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047.

Other Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.020, and 77.12.047.

Adopted under notice filed as WSR 23-19-043 on September 13, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 17, 2023.

Barbara Baker  
Commission Chair

**OTS-4886.1**

AMENDATORY SECTION (Amending WSR 23-12-051, filed 6/1/23, effective 7/2/23)

**WAC 220-200-100 Wildlife classified as protected shall not be hunted or fished.** Protected wildlife are designated into three subcategories: Threatened, sensitive, and other.

(1) Threatened species are any wildlife species native to the state of Washington that are likely to become endangered within the foreseeable future throughout a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as threatened include:

Common Name	Scientific Name
<del>((western gray squirrel</del>	<i>Sciurus griseus</i> ))
sea otter	<i>Enhydra lutris</i>
green sea turtle	<i>Chelonia mydas</i>

Common Name	Scientific Name
Mazama pocket gopher	<i>Thomomys mazama</i>
Columbian white-tailed deer	<i>Odocoileus virginianus leucurus</i>

(2) Sensitive species are any wildlife species native to the state of Washington that are vulnerable or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as sensitive include:

Common Name	Scientific Name
American white pelican	<i>Pelecanus erythrorhynchos</i>
Gray whale	<i>Eschrichtius robustus</i>
Common Loon	<i>Gavia immer</i>
Larch Mountain salamander	<i>Plethodon larselli</i>
Pygmy whitefish	<i>Prosopium coulteri</i>
Margined sculpin	<i>Cottus marginatus</i>
Olympic mudminnow	<i>Novumbra hubbsi</i>

(3) Other protected wildlife include:

Common Name	Scientific Name
cony or pika	<i>Ochotona princeps</i>
least chipmunk	<i>Tamias minimus</i>
yellow-pine chipmunk	<i>Tamias amoenus</i>
Townsend's chipmunk	<i>Tamias townsendii</i>
red-tailed chipmunk	<i>Tamias ruficaudus</i>
hoary marmot	<i>Marmota caligata</i>
Olympic marmot	<i>Marmota olympus</i>
Cascade golden-mantled ground squirrel	<i>Callospermophilus saturatus</i>
golden-mantled ground squirrel	<i>Callospermophilus lateralis</i>
Washington ground squirrel	<i>Urocitellus washingtoni</i>
red squirrel	<i>Tamiasciurus hudsonicus</i>
Douglas squirrel	<i>Tamiasciurus douglasii</i>
northern flying squirrel	<i>Glaucomys sabrinus</i>
Humboldt's flying squirrel	<i>Glaucomys oregonensis</i>
wolverine	<i>Gulo gulo</i>
painted turtle	<i>Chrysemys picta</i>
California mountain kingsnake	<i>Lampropeltis zonata</i>

All birds not classified as game birds, predatory birds or endangered species, or designated as threatened species or sensitive species; all bats, except when found in or immediately adjacent to a dwelling or other occupied building; mammals of the order Cetacea, including whales, porpoises, and mammals of the order Pinnipedia not otherwise classified as endangered species, or designated as threatened species or sensitive species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damag-

ing commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

**OTS-4562.1**

AMENDATORY SECTION (Amending WSR 23-06-035, filed 2/23/23, effective 3/26/23)

**WAC 220-610-010 Wildlife classified as endangered species.** Endangered species include:

Common Name	Scientific Name
Oregon vesper sparrow	<i>Pooecetes gramineus affinis</i>
pygmy rabbit	<i>Brachylagus idahoensis</i>
fisher	<i>Pekania pennanti</i>
gray wolf	<i>Canis lupus</i>
grizzly bear	<i>Ursus arctos</i>
killer whale	<i>Orcinus orca</i>
sei whale	<i>Balaenoptera borealis</i>
fin whale	<i>Balaenoptera physalus</i>
blue whale	<i>Balaenoptera musculus</i>
humpback whale	<i>Megaptera novaeangliae</i>
North Pacific right whale	<i>Eubalaena japonica</i>
sperm whale	<i>Physeter macrocephalus</i>
woodland caribou	<i>Rangifer tarandus caribou</i>
Columbian sharp-tailed grouse	<i>Tympanuchus phasianellus columbianus</i>
sandhill crane	<i>Grus canadensis</i>
snowy plover	<i>Charadrius nivosus</i>
upland sandpiper	<i>Bartramia longicauda</i>
spotted owl	<i>Strix occidentalis</i>
western pond turtle	<i>Clemmys marmorata</i>
leatherback sea turtle	<i>Dermochelys coriacea</i>
mardon skipper	<i>Polites mardon</i>
Oregon silverspot butterfly	<i>Speyeria zerene hippolyta</i>
Oregon spotted frog	<i>Rana pretiosa</i>
northern leopard frog	<i>Rana pipiens</i>
Taylor's checkerspot	<i>Euphydryas editha taylori</i>
Streaked horned lark	<i>Eremophila alpestris strigata</i>
Tufted puffin	<i>Fratercula cirrhata</i>
North American lynx	<i>Lynx canadensis</i>
marbled murrelet	<i>Brachyramphus marmoratus</i>
Loggerhead sea turtle	<i>Caretta caretta</i>
Yellow-billed cuckoo	<i>Coccyzus americanus</i>

Common Name	Scientific Name
Pinto abalone	<i>Haliotis kamtschatkana</i>
Greater sage grouse	<i>Centrocercus urophasianus</i>
Ferruginous hawk	<i>Buteo regalis</i>
Cascade red fox	<i>Vulpes vulpes cascadenis</i>
<u>western gray squirrel</u>	<i>Sciurus griseus</i>

**WSR 23-24-007**  
**PERMANENT RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed November 27, 2023, 10:02 a.m., effective February 1, 2024]

Effective Date of Rule: February 1, 2024.

Purpose: The department is adopting amendments to WAC

388-418-0005 How will I know what changes to report?, 388-470-0005 How do resources affect my eligibility for cash assistance and basic food?, 388-470-0045 How do my resources count toward the resource limits for cash assistance?, and 388-470-0070 How vehicles are counted toward the resource limit for cash assistance. Effective February 1, 2024, these amendments will expand resource exemptions for community services division cash programs and increase the cash resource limit from \$6,000 to \$12,000. These amendments are necessary to implement 2SHB 1447 (chapter 418, Laws of 2023). Amendments also make additional changes to improve clarity, update policy, or better align rule language with state and federal law or regulations.

Citation of Rules Affected by this Order: Amending WAC

388-418-0005, 388-470-0005, 388-470-0045, and 388-470-0070.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

Other Authority: 2SHB 1447 (chapter 418, Laws of 2023).

Adopted under notice filed as WSR 23-20-091 on October 2, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: November 27, 2023.

Katherine I. Vasquez  
Rules Coordinator

**SHS-5002.1**

AMENDATORY SECTION (Amending WSR 20-02-018, filed 12/19/19, effective 1/20/20)

**WAC 388-418-0005 How will I know what changes to report? (1)**

You must report changes to the department based on the kinds of assistance you receive. We inform you of your reporting requirements on letters we send you about your benefits. Follow the steps below to determine the types of changes you must report:

(a) If you receive **cash** benefits, you need to tell us if:

(i) You move;

(ii) Someone moves out of your home;

(iii) Your total gross monthly income goes over the:

(A) ((~~Payment standard~~)) Income limit under WAC ((~~388-478-0033~~)) 388-478-0090 if you receive ABD cash or HEN referral; or

(B) Earned income limit under WAC 388-478-0035 and 388-450-0165 for all other programs;

(iv) You have liquid resources more than ((~~six thousand dollars~~)) \$12,000; or

(v) You have a change in employment, you need to tell us if:

(A) You get a job or change employers;

(B) Your schedule changes from part-time to full-time or full-time to part-time;

(C) You have a change in your hourly wage rate or salary; or

(D) You stop working.

(b) If you are a relative or nonrelative caregiver and receive cash benefits on behalf of a child in your care but not for yourself or other adults in your household, you need to tell us if:

(i) You move;

(ii) The child you are caring for moves out of the home;

(iii) Anyone related to the child you are caring for moves into or out of the home;

(iv) There is a change in the recipient child's earned or un-earned income unless they are in school full-time as described in WAC 388-450-0070;

(v) The recipient child has liquid resources more than ((~~six thousand dollars~~)) \$12,000;

(vi) A recipient child in the home becomes a foster child; or

(vii) You legally adopt the recipient child.

(2) If you do not receive cash assistance but you do receive benefits from basic food, you must report changes for the people in your assistance unit under chapter 388-408 WAC, and tell us if:

(a) Your total monthly income is more than the maximum gross monthly income as described in WAC 388-478-0060;

(b) You or a member of your household receives substantial lottery or gambling winnings in a single game that is equal to or over the elderly or disabled resource limit under WAC 388-470-0005 (8)(a); or

(c) Anyone who receives food benefits in your assistance unit and who must meet work requirements under WAC 388-444-0030 has their hours at work go below ((~~twenty~~)) 20 hours per week.

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-470-0005 How do resources affect my eligibility for cash assistance and basic food?** (1) The following definitions apply to this chapter:

(a) "**We**" means the department of social and health services.

(b) "**You**" means a person applying for or getting benefits from the department.

(c) "**Fair market value**" or "**FMV**" means the price at which you could reasonably sell the resource.

- (d) **"Equity value"** means the FMV minus any amount you owe on the resource.
- (e) **"Community property"** means a resource in the name of the husband, wife, or both.
- (f) **"Separate property"** means a resource of a married person that one of the spouses:
- (i) Had possession of and paid for before they were married;
  - (ii) Acquired and paid for entirely out of income from separate property; or
  - (iii) Received as a gift or inheritance.
- (2) We count a resource to decide if your assistance unit (AU) is eligible for cash assistance or basic food when:
- (a) It is a resource we must count under WAC 388-470-0045 for cash assistance or WAC 388-470-0055 for basic food;
  - (b) You own the resource and we consider you to own a resource if:
    - (i) Your name is on the title to the property; or
    - (ii) You have property that does not have a title;
    - (c) You have control over the resource, which means the resource is actually available to you; and
    - (d) You could legally sell the resource or convert it into cash within 20 days.
- (3) For cash assistance, you must try to make your resources available even if it will take you more than 20 days to do so, unless:
- (a) There is a legal barrier; or
  - (b) You must petition the court to release part or all of a resource.
- (4) When you apply for assistance, we count your resources as of:
- (a) The date of your interview, if you are required to have an interview; or
  - (b) The date of your application, if you are not required to have an interview.
- (5) If your total countable resources are over the resource limit in subsection (6) through (13) of this section, you are not eligible for benefits.
- (6) For cash assistance, there is an equity value resource limit of (~~(\$6,000)~~) \$12,000.
- (7) If your AU is categorically eligible (CE) as described in WAC 388-414-0001, you do not have a resource limit for basic food.
- (8) If your AU is not CE under WAC 388-414-0001, your AU may have countable resources up to the following amount and be eligible for basic food:
- (a) \$4,250 if your AU has either an elderly or disabled individual; or
  - (b) \$2,750 for all other AUs.
- (9) If you own a countable resource with someone who is not in your AU, we count the portion of the resource that you own. If we cannot determine how much of the resource is yours:
- (a) For cash assistance, we count an equal portion of the resource that belongs to each person who owns it.
  - (b) For basic food, we count the entire amount unless you can prove that the entire amount is not available to you.
- (10) We assume that you have control of community property and you can legally sell the property or convert it to cash unless you can show that you do not.
- (11) We may not consider an item to be separate property if you used both separate and community funds to buy or improve it.

(12) We do not count the resources of victims of family violence when:

- (a) The resource is owned jointly with members of the former household;
  - (b) Availability of the resource depends on an agreement of the joint owner; or
  - (c) Making the resource available would place the client at risk of harm.
- (13) You may give us proof about a resource anytime, including when we ask for it or if you disagree with a decision we made, about:
- (a) Who owns a resource;
  - (b) Who has legal control of a resource;
  - (c) The value of a resource;
  - (d) The availability of a resource; or
  - (e) The portion of a property you or another person owns.

AMENDATORY SECTION (Amending WSR 23-06-039, filed 2/23/23, effective 3/26/23)

**WAC 388-470-0045 How do my resources count toward the resource limits for cash assistance?** (1) We count the following resources toward your assistance unit's resource limits for cash assistance to decide if you are eligible for benefits under WAC 388-470-0005:

- (a) Liquid resources not specifically excluded in subsection (2) of this section, including but not limited to:
  - (i) Cash on hand;
  - (ii) Money in checking or savings accounts;
  - (iii) Money market accounts or certificates of deposit (CD) less any withdrawal penalty;
  - (iv) ~~((Available retirement funds or pension benefits less any withdrawal penalty;~~
  - ~~(v))~~ Stocks, bonds, annuities, or mutual funds less any early withdrawal penalty;
  - ~~((vi))~~ (v) Available trusts or trust accounts;
  - ~~((vii))~~ (vi) Lump sum payments as described in chapter 388-455 WAC; and
  - ~~((viii))~~ (vii) Any funds retained beyond the month of receipt from conversion of federally protected rights or extraction of exempt resources by members of a federally recognized tribe that are in the form of countable resources;
- (b) The cash surrender value (CSV) of whole life insurance policies;
- (c) The CSV over \$1,500 of revocable burial insurance policies or funeral agreements;
- (d) The amount of a child's irrevocable educational trust fund that is over \$4,000 per child;
- (e) Funds withdrawn from an individual development account (IDA) if they were removed for a purpose other than those specified in RCW 74.08A.220;
- (f) Any real property like a home, land, or building not specifically excluded in this section;
- (g) The equity value of vehicles as described in WAC 388-470-0070;
- (h) Resources of a sponsor as described in WAC 388-470-0060;
- (i) Sales contracts; and



- (j) Personal property that is not:
  - (i) A household good;
  - (ii) Needed for self-employment; or
  - (iii) Of great sentimental value due to personal attachment or hobby interest.
- (2) The following types of liquid resources do not count when we determine your eligibility:
  - (a) Bona fide loans, including student loans;
  - (b) Basic food benefits;
  - (c) Income tax refunds for 12 months from the date of receipt;
  - (d) Earned income tax credit (EITC) in the month received and for up to 12 months;
  - (e) Advance earned income tax credit payments;
  - (f) Washington's working families tax credit (WFTC);
  - (g) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;
  - (h) Individual development accounts (IDAs) established under RCW 74.08A.220;
  - (i) Retroactive cash benefits or TANF/SFA benefits resulting from a court order modifying a department decision;
  - (j) Underpayments received under chapter 388-410 WAC;
  - (k) Educational benefits that are excluded as income under WAC 388-450-0035;
  - (l) The income and resources of an SSI recipient;
  - (m) A bank account jointly owned with an SSI recipient if SSA already counted the money for SSI purposes;
  - (n) Foster care payments provided under Title IV-E, state foster care maintenance payments, or both;
  - (o) Adoption support payments;
  - (p) All funds in an achieving a better life experience (ABLE) account;
  - (q) Self-employment accounts receivable that the client has billed to the customer but has been unable to collect;
  - (r) Retirement funds or pension benefits; and
  - ~~((r))~~ (s) Resources specifically excluded by federal law.
- (3) The following types of real property do not count when we determine your eligibility:
  - (a) Your home and the surrounding property that you, your spouse, or your dependents live in;
  - (b) A house you do not live in, if you plan to return to the home and are out of the home because of:
    - (i) Employment;
    - (ii) Training for future employment;
    - (iii) Illness; or
    - (iv) Natural disaster or casualty;
  - (c) Indian lands held jointly with a tribe or land that can be sold only with the approval of the Bureau of Indian Affairs; and
  - (d) Property that:
    - (i) You are making a good faith effort to sell;
    - (ii) You intend to build a home on, if you do not already own a home;
    - (iii) Produces income consistent with its fair market value, even if used only on a seasonal basis; or
    - (iv) A household member needs for employment or self-employment.
- (4) Property excluded under subsection (3)(d)(iv) of this section used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing.

(5) If you deposit excluded liquid resources into a bank account with countable liquid resources, we do not count the excluded liquid resources for six months from the date of deposit.

(6) If you sell your home, you have 90 days to reinvest the sale proceeds into an exempt resource.

(7) If you do not reinvest within 90 days, we will determine whether there is good cause to allow more time. If we determine you have good cause, we will give you more time based on your circumstances. If you do not have good cause, we will count your sale proceeds as a resource. Some examples of good cause include:

- (a) Closing on your new home is taking longer than anticipated;
- (b) You are unable to find a new home that you can afford;
- (c) Someone in your household is receiving emergent medical care;
- (d) Your children are in school and moving would require them to change schools.

AMENDATORY SECTION (Amending WSR 19-01-105, filed 12/18/18, effective 2/1/19)

**WAC 388-470-0070 How vehicles are counted toward the resource limit for cash assistance.** (1) A vehicle is any device for carrying persons and objects by land, water, or air.

(2) The entire value of a licensed vehicle needed to transport a physically disabled assistance unit member is excluded.

(3) The ~~((equity))~~ entire value of one vehicle ~~((up to 10,000 dollars))~~ is excluded when the vehicle is used by the assistance unit or household as a means of transportation.

**WSR 23-24-009**  
**PERMANENT RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed November 27, 2023, 10:14 a.m., effective December 28, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is adopting amendments to WAC 388-474-0012 What is the state supplemental payment and who can get it? and 388-478-0055 How much do I get from my state supplemental payments (SSP)? These amendments provide clarity regarding the state supplemental payment (SSP) standard rate for individuals receiving care in a medical institution or residential setting. The SSP rate is based off the Washington state institutional personal needs allowance standard which increased on July 1, 2023, due to the passage of HB 1128 (chapter 201, Laws of 2023). These amendments are currently in effect via emergency rules under WSR 23-22-015.

Citation of Rules Affected by this Order: Amending WAC 388-474-0012 and 388-478-0055.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, 74.08A.250.

Other Authority: HB 1128 (chapter 201, Laws of 2023).

Adopted under notice filed as WSR 23-17-121 on August 18, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 27, 2023.

Katherine I. Vasquez  
Rules Coordinator

**SHS-4987.2**

AMENDATORY SECTION (Amending WSR 15-16-022, filed 7/24/15, effective 8/24/15)

**WAC 388-474-0012 What is a state supplemental payment and who can get it?** (1) The state supplemental payment (SSP) is a state-funded cash assistance program for certain clients who the Social Security Administration determines are eligible for supplemental security income (SSI).

(2) You can get an SSP if:

(a) You are a grandfathered SSI recipient under WAC 388-474-0001;

(b) You are an individual with an ineligible spouse under WAC 388-474-0001;

(c) You receive SSI because you are age (~~(sixty-five)~~) 65 or older under WAC 388-474-0001;

(d) You receive SSI because you are blind under WAC 388-474-0001;

(e) You receive SSI because you are disabled under WAC 388-474-0001;

(f) You are determined eligible for SSP by the developmental disabilities administration; (~~(or)~~)

(~~(f)~~) (g) You are eligible for and receive SSI as a foster child receiving specific services through children's administration behavior rehabilitation services (BRS) for part or all of a month, and not eligible for foster care reimbursement under Title IV-E of the Social Security Act (~~(-)~~); or

(h) You are an SSI recipient residing in a medical institution and your SSI has been reduced based on the institutional SSI payment standard.

AMENDATORY SECTION (Amending WSR 20-23-053, filed 11/13/20, effective 1/1/21)

**WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)?** (1) The SSP is a (~~(payment from the state)~~) state-funded cash assistance program issued to certain individuals who the Social Security Administration (SSA) determines are eligible for supplemental security income (SSI) (eligible people) as described in WAC 388-474-0012.

(2) (~~(If you converted to the federal SSI program from state assistance in January 1974 because you were aged, blind, or disabled, and have remained continuously eligible for SSI since January 1974, the department calls you a grandfathered client. Social Security calls you a minimum income level (MIL) client.~~)

A change in living situation, cost-of-living adjustment (COLA), or federal benefit rate (FBR) can affect a grandfathered MIL client. A grandfathered MIL client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) ~~The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal COLA since then; or~~

(b) ~~The current payment standard.~~

(3) ~~The monthly)~~ Monthly SSP rate standards for eligible persons (~~(under)~~) as described in WAC 388-474-0012 (~~(and individuals residing in an institution)~~) are:

<del>((SSP-eligible persons</del>	Standard
<del>Individual (aged 65 and older)</del>	\$38.25
<del>Individual (blind as determined by SSA)</del>	\$38.25
<del>Individual with an ineligible spouse</del>	\$38.25

((SSP-eligible persons Grandfathered (MIL)	Standard Varies by individual based on federal requirements: Payments range between \$0.54 and \$199.77.))
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((Medical institution Individual	Monthly SSP Rate \$40.00))
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(a) \$38.25 for:

(i) Individuals with an ineligible spouse;

(ii) Aged 65 and older;

(iii) Blind as determined by SSA; or

(iv) Disabled as determined by SSA.

(b) Between \$0.54 and \$199.77 for grandfathered clients as defined in 388-474-0001 and varies by individual based on federal requirements.

(c) \$70.00 for individuals residing in a medical institution. It is based on increasing the federal SSI personal needs allowance (PNA) of \$30.00 up to the current Washington state institutional PNA standard described in subsection (5) of WAC 182-513-1105. The current state PNA standard for institutional apple health is located at <https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.

(3) A change in living situation, cost-of-living adjustment (COLA), or federal benefit rate (FBR) can affect a grandfathered client. A grandfathered client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal COLA since then; or

(b) The current payment standard.

(4) ((We may adjust the)) SSP rate standards may be adjusted at the end of the calendar year to comply with WAC 388-478-0057.

((5) The medical institution SSP rate is based on increasing the federal SSI personal needs allowance (PNA) up to the current Washington state institutional PNA standard described in WAC 182-513-1105. The state rate may be adjusted by the percentage of the cost-of-living adjustment (COLA) for old-age, survivors and disability social security recipients as published by the federal social security administration. This adjustment is subject to state legislative funding. The current PNA rule used in institutional apple health is located at <https://www.hca.wa.gov/health-care-services-supports/program-standard-income-and-resources>.)

**WSR 23-24-010**  
**PERMANENT RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed November 27, 2023, 10:18 a.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: This repeal of this rule is necessary because the training course required in the rule no longer meets the intended purpose. The subject matter of this training is covered in adult family home (AFH) administrator training, which is required for AFH license applicants who have not already completed it. Currently, AFH license applicants must provide evidence of the orientation course with their license application. Timely registration and completion of the course has been a barrier to prospective AFH applicants who must take the course at a local community college. Repealing this rule will enable applicants to submit their AFH license application sooner. This will decrease the amount of time it takes from the initiation of an application to submission. It will also reduce duplication of training content.

Citation of Rules Affected by this Order: Repealing WAC 388-76-10060.

Statutory Authority for Adoption: RCW 70.128.040.

Adopted under notice filed as WSR 23-19-016 on September 8, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 27, 2023.

Katherine I. Vasquez  
Rules Coordinator

**SHS-5000.1**

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-76-10060	Application—Department orientation class—Required.
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## WSR 23-24-012

## PERMANENT RULES

## HEALTH CARE AUTHORITY

[Filed November 27, 2023, 2:56 p.m., effective December 28, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule lowers the minimum eligibility age for community support services from age 18 to age 16.

Citation of Rules Affected by this Order: Amending WAC 182-559-300.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 23-21-068 on October 12, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 27, 2023.

Wendy Barcus  
Rules Coordinator

**OTS-4866.1**

AMENDATORY SECTION (Amending WSR 21-23-052, filed 11/10/21, effective 12/11/21)

**WAC 182-559-300 Eligibility for community support services.** To be eligible for community support services, a client must:

- (1) Be age ((eighteen)) 16 or older;
- (2) Be eligible for Washington apple health (medicaid);
- (3) Meet at least one of the following health criteria and be expected to benefit from community support services:

(a) Clients assessed by a licensed behavioral health agency, under chapter 246-341 WAC, to have a behavioral health need, which is defined as one or both of the following criteria:

(i) Mental health needs, including a need for improvement, stabilization, or prevention of deterioration of functioning (including the ability to live independently without support) resulting from the presence of a mental illness; or

(ii) Substance use needs determined by an assessment using the American Society of Addiction Medicine (ASAM) criteria indicates that the client meets at least ASAM level 1.0, indicating the need for outpatient substance use disorder (SUD) treatment. The ASAM is a multi-dimensional assessment approach for determining a client's need for SUD treatment.

(b) Clients assessed via a CARE assessment, per WAC 388-106-0050, to have a need for assistance demonstrated by:

(i) The need for assistance with at least three activities of daily living (ADLs) defined in WAC 388-106-0010, one of which may be body care; or

(ii) The need for hands-on assistance with at least one ADL which may include body care.

(c) Clients assessed to be a homeless person with a disability, according to 24 C.F.R. 578.3, which is defined as a long continuing or indefinite physical condition requiring improvement, stabilization, or prevention of deterioration of functioning (including ability to live independently without support).

(4) Exhibit at least one of the following risk factors:

(a) Homeless clients who:

(i) Have been homeless for at least (~~twelve~~) 12 months; or

(ii) Have been homeless on at least four separate occasions in the last three years, as long as the combined occasions equal at least (~~twelve~~) 12 months.

Homeless is defined as living in a safe haven, an emergency shelter, or a place not meant for human habitation. See 24 C.F.R. 578.3.

(b) A history of frequent or lengthy institutional contact.

(i) Institutional care facilities include jails, substance use disorder or mental health treatment facilities, hospitals, or other similar facilities, as defined in 24 C.F.R. 578.3, or skilled nursing facilities as defined in WAC 388-97-0001.

(ii) Frequent means more than one contact in the past (~~twelve~~) 12 months.

(iii) Lengthy means (~~ninety~~) 90 or more consecutive days within an institutional setting in the past (~~twelve~~) 12 months.

(c) A history of frequent stays at adult residential care facilities as defined by WAC 388-110-020 or residential treatment facilities as defined by WAC 246-337-005. Frequent means more than one contact in the past (~~twelve~~) 12 months.

(d) Have frequent turnover of in-home caregivers as defined by WAC 388-106-0040, where within the last (~~twelve~~) 12 months the client utilized three or more different in-home caregiver providers and the current placement is not appropriate for the client.

(e) Have a predictive risk score of 1.5 or above. See WAC 182-557-0225.



**WSR 23-24-020**  
**PERMANENT RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed November 28, 2023, 4:41 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: Chapter 148, Laws of 2023 (ESHB 1361) passed during the 2023 legislative session with an effective date of July 23, 2023. Section 3 of this bill amends RCW 41.06.070 Exemptions to chapter—Right of reversion, to add subsection (6), which suspends a person's right to reversion during the pendency of a workplace investigation if the allegations being investigated could result in a finding of gross misconduct or malfeasance. The amendments align Title 357 WAC with the requirements of the new law. The amendments to WAC 357-04-030, 357-19-195, and 357-19-200 are to state that if a permanent employee exercises their right to return to classified service from exempt service, the right of return may not be exercised if the employee is terminated from the exempt position for gross misconduct or malfeasance, or during the pendency of an investigation if the employee has been given written notice that they are the subject of an active workplace investigation which may result in a finding of gross misconduct or malfeasance. The new section, WAC 357-19-197, is to address what information a receiving employer must verify when a permanent employee exercises their right to return to classified service from an exempt appointment. For purposes of these rules, "written notice" includes notice sent by email to the employee's work email address; and "pendency of an investigation" lasts until the employer has taken final appropriate action based on the finding of the investigation.

Citation of Rules Affected by this Order: New WAC 357-19-197; and amending WAC 357-04-030, 357-19-195, and 357-19-200.

Statutory Authority for Adoption: RCW 41.06.150.

Other Authority: RCW 41.06.070.

Adopted under notice filed as WSR 23-20-077 on September 29, 2023.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-19-197 (1)(a) was amended to remove inadvertent duplicative language ("or was not terminated from the exempt position for gross misconduct or malfeasance") because that language is in WAC 357-19-197 (1)(b).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 3, Repealed 0.

Date Adopted: November 28, 2023.

Nathan Sherrard  
Assistant Legal Affairs Counsel

## OTS-4860.1

AMENDATORY SECTION (Amending WSR 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

**WAC 357-04-030 What right does an employee have to return to the classified service from exempt service?** As required by RCW 41.06.070, any employee having permanent status in a classified position who accepts an appointment in an exempt position has the right to return to classified service in accordance with WAC 357-19-195, 357-19-200, and 357-19-205. (~~(As long as the employee was not terminated from the exempt position for gross misconduct or malfeasance,)~~) The employee has the right to return to the highest class of position in which the employee previously held permanent status or to a position of similar nature and salary. The right of return may not be exercised if the employee is terminated from the exempt position for gross misconduct or malfeasance, or during the pendency of an investigation if the employee has been given written notice that they are the subject of an active workplace investigation which may result in a finding of gross misconduct or malfeasance.

For purposes of this section:

- (1) "Written notice" includes notice sent by email to the employee's work email address; and
- (2) "Pendency of an investigation" lasts until the employer has taken final appropriate action based on the finding of the investigation.

## OTS-4861.2

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-195 If a permanent employee in a classified position accepts an appointment to an exempt position, what is the employee's right to return to a position in the classified service?** A permanent employee who accepts an appointment to an exempt position has the right to return to classified service at any time (~~(as long as the employee was not)~~). However, the right of return may not be exercised if the employee is terminated from an exempt position for gross misconduct or malfeasance, or during the pendency of an investigation if the employee has been given written notice that they are the subject of an active workplace investigation which may result in a finding of gross misconduct or malfeasance.

The employee's right is to a position in the highest class in which the employee previously held permanent status or to a position of similar nature and salary. The return right is to the most recent employer with which permanent status in the highest class was held. A position in the highest class does not necessarily mean return to the most recent employer.

If upon an employee being returned to a classified position there are fewer positions than there are employees entitled to such positions, the employer's layoff procedure applies.

For purposes of this section:

(1) "Written notice" includes notice sent by email to the employee's work email address; and

(2) "Pendency of an investigation" lasts until the employer has taken final appropriate action based on the finding of the investigation.

NEW SECTION

**WAC 357-19-197 What information must a receiving employer verify when a permanent employee exercises their right to return to classified service from an exempt appointment?** (1) When a permanent employee exercises their right to return to classified service from an exempt appointment in accordance with RCW 41.06.070, the receiving employer must verify:

(a) The employee is not the subject of an active pending workplace investigation of which the employee was given written notice, and which may result in a finding of gross misconduct or malfeasance; and

(b) The employee was not terminated from the exempt position for gross misconduct or malfeasance.

(2) For purposes of this section:

(a) "Written notice" includes notice sent by email to the employee's work email address; and

(b) "Pendency of an investigation" lasts until the employer has taken final appropriate action based on the finding of the investigation.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-200 When must an employee apply to return to classified service from exempt service?** Employees exercising return rights should provide as much advance notice as is practicable to the receiving employer. The employee must apply to return to classified service within (~~(thirty)~~) 30 calendar days of:

- Separation from employment in the exempt position, or
- Separation from employment in any subsequent exempt position if there is no break in state service of more than (~~(thirty)~~) 30 calendar days between initial and subsequent exempt appointments.

Employees who apply for return to classified service within (~~(thirty)~~) 30 calendar days must be returned to a position at the time of separation from the exempt appointment or the time of application, whichever is later.

The right of return may not be exercised if the employee is terminated from the exempt position for gross misconduct or malfeasance, or during the pendency of an investigation if the employee has been given written notice that they are the subject of an active workplace investigation which may result in a finding of gross misconduct or malfeasance.

For purposes of this section:

- (1) "Written notice" includes notice sent by email to the employee's work email address; and
- (2) "Pendency of an investigation" lasts until the employer has taken final appropriate action based on the finding of the investigation.

**WSR 23-24-021**  
**PERMANENT RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed November 28, 2023, 4:41 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The amendment to WAC 357-28-265 is to align Washington state department of labor and industries guidance that if an employer requires employees to receive a COVID-19 vaccine, the time associated with receiving the vaccine must be considered hours worked and over-time must be paid under the Washington State Minimum Wage Act. The amendment to WAC 357-31-027 adds subsection (8) to require that a higher education employer must allow a part-time high-risk employee to utilize accrued holiday credit to protect themselves from risk of exposure to an infectious or contagious disease if the employer determines no other accommodation is reasonable besides the use of leave. This amendment was inadvertently missed during previous rule making in 2022. The amendments to WAC 357-31-070 (1)(f), 357-31-100(9), 357-31-130(3), 357-31-200 (1)(h), 357-31-230(8), and 357-31-567 (1)(d) is to align with a policy decision to allow for a high-risk employee outside of a declared public health emergency to utilize all accrued leave types when seeking an accommodation to protect themselves from risk of exposure to an infectious or contagious disease if no accommodation is reasonable. A high-risk employee is no longer limited to the definition of an employee who is high-risk as defined in RCW 49.17.062. The amendments to WAC 357-31-100(9) remove the requirement for an employer to grant leave without pay (LWOP) to a high-risk employee who is seeking an accommodation and adds new language to state the employer may require that the high-risk employee's request be supported by verification or documentation. The amendments to WAC 357-31-100 to add subsection (10) and WAC 357-31-327(6) are to clarify that an employer must grant LWOP to a high-risk employee during a declared public health emergency. The requirement for employers to approve LWOP for this reason is limited to the duration of a declared public health emergency as required in RCW 49.17.062. The amendments to WAC 357-31-100 to add subsection (13) and WAC 357-31-160 are to align with a longstanding rule interpretation that separation is from state service and to clarify former employees who are reemployed after being separated from state service for five years or longer may be restored unused sick leave credits in accordance with employer leave policy. The amendment to WAC 357-31-330(14) expands the reasons an employer may grant LWOP for an employee to protect themselves, or a relative or household member, from risks related specifically to coronavirus disease to the risk of exposure to any infectious or contagious disease.

Citation of Rules Affected by this Order: Amending WAC 357-28-265, 357-31-027, 357-31-070, 357-31-100, 357-31-130, 357-31-160, 357-31-200, 357-31-230, 357-31-327, 357-31-330, and 357-31-567.

Statutory Authority for Adoption: RCW 41.06.133.

Adopted under notice filed as WSR 23-20-075 on September 29, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 11, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 11, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 11, Repealed 0.

Date Adopted: November 28, 2023.

Nathan Sherrard  
Assistant Legal Affairs Counsel

### OTS-4483.1

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

**WAC 357-28-265 For the purpose of computing eligibility for overtime compensation, are holidays and leave with pay considered time worked?** For purposes of computing eligibility for overtime compensation, paid holidays during the employee's regular work schedule **are** considered time worked. Leave with pay during the employee's regular work schedule is **not** considered time worked except for:

(1) When leave is taken to travel and receive each dose or booster of COVID-19 vaccine in accordance with WAC 357-31-325; or

(2) When leave is taken to receive each dose or booster of COVID-19 vaccine in accordance with WAC 357-31-326.

### OTS-4610.5

AMENDATORY SECTION (Amending WSR 22-24-027, filed 11/30/22, effective 1/1/23)

**WAC 357-31-027 When must a higher education employer allow a part-time employee to use accrued holiday credit?** Higher education employers must allow a part-time employee as defined in WAC 357-01-2290(2) to use accrued holiday credit for the following reasons:

(1) Employees must request to use accrued holiday credit in accordance with the employer's leave policy. When considering employees' requests to use accrued holiday credit, employers must consider their business needs and the wishes of the employee.

(2) An employee must be granted the use of accrued holiday credit to care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition, or to care for a minor/dependent child with a health condition that requires treatment or supervision.

In accordance with the employer's leave policy, approval of the employee's request to use accrued holiday credit may be subject to verification that the condition exists.

(3) An employee must be granted the use of accrued holiday credit if the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(4) In accordance with WAC 357-31-373, an employee must be granted the use of accrued holiday credit to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(5) An employee must be granted the use of accrued holiday credit when requested as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW as provided in WAC 357-31-248. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for approved paid family and/or medical leave under Title 50A RCW.

(6) Employers may require that accumulated holiday credit be used before vacation leave is approved, except in those instances where this requirement would result in loss of accumulated vacation leave.

(7) If the employee requests to use their accrued holiday credit when granted a temporary leave of absence for legislative service in accordance with WAC 357-31-374(2).

(8) When a high-risk employee seeks an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease and the employer determines no other accommodation is reasonable besides the use of leave.

AMENDATORY SECTION (Amending WSR 22-24-027, filed 11/30/22, effective 1/1/23)

**WAC 357-31-070 When is an employer required to approve an employee's request to use a personal holiday?** (1) An employer must approve the use of a personal holiday as long as:

(a) The employee is entitled to a personal holiday in accordance with RCW 1.16.050 and WAC 357-31-055;

(b) The employee has requested the personal holiday in accordance with the employer's leave procedures; and

(c) The employee's absence does not interfere with the operational needs of the employer.

(2) At any time, an employer must allow an employee to use part or all of the personal holiday for any of the following reasons:

(a) To care for a minor/dependent child with a health condition that requires treatment or supervision;

(b) To care for a spouse, registered domestic partner, parent, parent-in-law or grandparent of the employee who has a serious health condition or an emergency health condition;

(c) If the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking as defined in RCW

49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730;

(d) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment;

(e) If the employee requests to use their personal holiday as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for paid family and/or medical leave under Title 50A RCW;

(f) When a high-risk employee (~~(, as defined in RCW 49.17.062,)~~) seeks (~~(a reasonable)~~) an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease and the employer determines no other accommodation is reasonable besides the use of leave; or

(g) If the employee requests to use their personal holiday when granted a temporary leave of absence for legislative service in accordance with WAC 357-31-374(2).

AMENDATORY SECTION (Amending WSR 22-24-027, filed 11/30/22, effective 1/1/23)

**WAC 357-31-100 Must an employer have a policy for requesting and approving leave?** Each employer must develop a leave policy which specifies the procedure for requesting and approving all leave, as provided in the civil service rules. The employer's policy must:

(1) Allow an employee to use vacation leave without advance approval when the employee is requesting to use vacation leave to respond to family care emergencies or for an emergency health condition as provided in WAC 357-31-200 (1)(b);

(2) Allow an employee to use a reasonable amount of accrued leave or unpaid leave when the employee is a victim or has a family member, as defined in chapter 357-01 WAC, who is a victim of domestic violence, sexual assault or stalking as defined in RCW 49.76.020;

(3) Allow an employee to use accrued leave as a supplemental benefit as provided in WAC 357-31-248;

(4) Address advance notice from the employee when the employee is seeking leave under subsections (2) and (3) of this section. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault or stalking, the employee or the employee's designee must give notice to the employer no later than the end of the first day that the employee takes such leave;

(5) Allow an employee to use sick leave for the purpose of parental leave to bond with a newborn, adoptive or foster child. The policy must state the total amount of sick leave allowed to be used beyond 18 weeks in accordance with WAC 357-31-133;



(6) Address overtime eligible employees that are required to provide medical certification or verification to their employer for the use of paid sick leave under chapter 296-128 WAC;

(7) Address overtime eligible employees that are required to provide reasonable notice to their employer for an absence from work for the use of paid sick leave under chapter 296-128 WAC;

(8) Address whether a general government employee may take additional accrued leave beyond 30 days in a two-year period to participate in life-giving procedures in accordance with RCW 41.06.570;

(9) Allow a high-risk employee (~~(, as defined in RCW 49.17.062,)~~) seeking ~~((a reasonable))~~ an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease to use their accrued leave ~~((and leave without pay))~~ if the employer determines no other accommodation is reasonable besides the use of leave. The employer may require that the employees request be supported by verification or documentation;

(10) Allow a high-risk employee seeking an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease during a public health emergency to use leave without pay if the employer determines no other accommodation is reasonable besides the use of leave in accordance with RCW 49.17.062;

(11) Allow an employee to use unpaid leave when the employee is granted a temporary leave of absence for service in an elective office in accordance with WAC 357-31-374(1); ~~((and~~

~~(11))~~ (12) Allow an employee to use unpaid and/or accrued paid leave when the employee is granted a temporary leave of absence for legislative service in accordance with WAC 357-31-374(2). The policy must state employees who request a leave of absence for legislative service must provide notice to the employer at least 30 days in advance for a regular legislative session or as soon as the session is proclaimed for a special session; and

(13) Address whether former employees who are reemployed after five years of separation from state service may be restored unused sick leave credits in accordance with WAC 357-31-160.

AMENDATORY SECTION (Amending WSR 22-24-027, filed 11/30/22, effective 1/1/23)

**WAC 357-31-130 When must an employer allow an employee to use their accrued sick leave?** The employer may require medical verification or certification of the reason for sick leave use in accordance with the employer's leave policy and in compliance with chapter 296-128 WAC.

Employers **must** allow the use of accrued sick leave under the following conditions:

(1) An employee's mental or physical illness, disability, injury or health condition that has incapacitated the employee from performing required duties; to accommodate the employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or an employee's need for preventive medical care.

(2) By reason of exposure of the employee to a contagious disease when the employee's presence at work would jeopardize the health of others.

(3) When a high-risk employee (~~(, as defined in RCW 49.17.062,)~~) seeks (~~(a reasonable)~~) an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease and the employer determines no other accommodation is reasonable besides the use of leave.

(4) To allow an employee to provide care for a child who has been exposed to a contagious disease and is required to quarantine; or when a household or family member needs additional care, not covered by subsection (6) of this section, who has been exposed to a contagious disease and is required to quarantine.

(5) When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such reason.

(6) To allow an employee to provide care for a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or care for a family member who needs preventive medical care.

(7) For family care emergencies per WAC 357-31-290, 357-31-295, 357-31-300 and 357-31-305.

(8) When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee or relatives of the employee's spouse/registered domestic partner who experience an illness or injury, not including situations covered by subsection (6) of this section.

(a) The employer must approve up to five days of accumulated sick leave each occurrence. Employers may approve more than five days.

(b) For purposes of this subsection, "relatives" is limited to spouse, registered domestic partner, child, grandchild, grandparent or parent.

(9) When requested as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW as provided in WAC 357-31-248. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for paid family and/or medical leave under Title 50A RCW.

(10) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(11) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(12) When an employee requests to use sick leave for the purpose of parental leave to bond with a newborn, adoptive or foster child for a period up to 18 weeks. Sick leave for this purpose must be taken during the first year following the child's birth or placement.

(13) If the employee requests to use sick leave when granted a temporary leave of absence for legislative service in accordance with WAC 357-31-374(2).

AMENDATORY SECTION (Amending WSR 22-12-076, filed 5/27/22, effective 7/1/22)

**WAC 357-31-160 When a former employee is (~~(re-employed)~~) reemployed, is sick leave restored?** Former employees who are (~~(re-employed)~~) reemployed within five years of their separation from state service must be restored unused sick leave credits, if any, to which they were entitled at the time of separation. Former employees who are reemployed after five years of their separation from state service may be restored unused sick leave credits in accordance with the employer's leave policy. The employee may use the restored balance in accordance with WAC 357-31-130 and 357-31-133.

If the employee was retired from government service before being (~~(re-employed)~~) reemployed, when the employee subsequently retires again or dies, only that unused sick leave accrued since the date of reemployment minus that taken within the same period may be compensated per the conversion provisions of WAC 357-31-150.

AMENDATORY SECTION (Amending WSR 22-24-027, filed 11/30/22, effective 1/1/23)

**WAC 357-31-200 When must an employer grant the use of vacation leave?** (1) An employee's request to use vacation leave must be approved under the following conditions:

- (a) As a result of the employee's serious health condition.
- (b) To care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition.
- (c) To care for a minor/dependent child with a health condition that requires treatment or supervision.
- (d) For parental leave as provided in WAC 357-31-460.
- (e) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.
- (f) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.
- (g) When requested as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW as provided in WAC 357-31-248.
- (h) When a high-risk employee (~~(, as defined in RCW 49.17.062,)~~) seeks (~~(a reasonable)~~) an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease and the employer determines no other accommodation is reasonable besides the use of leave.
- (i) When the employee requests to use their vacation leave when granted a temporary leave of absence for legislative service in accordance with WAC 357-31-374(2).

(2) In accordance with the employer's leave policy, approval for the reasons listed in (1)(a) through (g) above may be subject to verification that the condition or circumstance exists or that paid family and/or medical leave under Title 50A RCW has been approved.

AMENDATORY SECTION (Amending WSR 22-24-027, filed 11/30/22, effective 1/1/23)

**WAC 357-31-230 When must an employee be granted the use of accrued compensatory time?** (1) Employees must request to use accrued compensatory time in accordance with the employer's leave policy. When considering employees' requests, employers must consider their business needs and the wishes of the employee.

(2) An employee must be granted the use of accrued compensatory time to care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition, or to care for a minor/dependent child with a health condition that requires treatment or supervision. In accordance with the employer's leave policy, approval of the employee's request to use accrued compensatory time may be subject to verification that the condition exists.

(3) An employee must be granted the use of accrued compensatory time if the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(4) In accordance with WAC 357-31-373, an employee must be granted the use of accrued compensatory time to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(5) When requested as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW as provided in WAC 357-31-248. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for approved paid family and/or medical leave under Title 50A RCW.

(6) Compensatory time off may be scheduled by the employer during the final 60 days of a biennium.

(7) Employers may require that accumulated compensatory time be used before vacation leave is approved, except in those instances where this requirement would result in loss of accumulated vacation leave.

(8) A high-risk employee (~~(, as defined in RCW 49.17.062,)~~) seeking ~~((a reasonable))~~ an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease must be granted the use of accrued compensatory time if the employer determines no other accommodation is reasonable besides the use of leave.

(9) An employee must be granted the use of compensatory time when granted a temporary leave of absence for legislative service in accordance with WAC 357-31-374(2).

AMENDATORY SECTION (Amending WSR 22-24-027, filed 11/30/22, effective 1/1/23)

**WAC 357-31-327 When must an employer grant leave without pay?**

An employer must grant leave without pay under the following conditions:

- (1) When an employee who is a volunteer firefighter is called to duty to respond to a fire, natural disaster, or medical emergency;
- (2) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730; or
- (3) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.
- (4) When an employee requests a day off for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization in accordance with WAC 357-31-052.
- (5) When an employee is on approved paid family and/or medical leave under Title 50A RCW. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for paid family and/or medical leave under Title 50A RCW and qualifies for employment protection in accordance with RCW 50A.35.010.
- (6) When a high-risk employee (~~(, as defined in RCW 49.17.062,)~~) seeks ~~((a reasonable))~~ an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease during a public health emergency and the employer determines no other accommodation is reasonable besides the use of leave in accordance with RCW 49.17.062.
- (7) When an employee is granted a temporary leave of absence for service in an elective office or for legislative service in accordance with WAC 357-31-374.

AMENDATORY SECTION (Amending WSR 22-12-076, filed 5/27/22, effective 7/1/22)

**WAC 357-31-330 For what reasons may an employer grant leave without pay?** Leave without pay may be allowed for any of the following reasons in accordance with the employer's leave policy:

- (1) For any reason leave with pay may be granted, as long as the conditions for leave with pay are met;
- (2) Educational leave;
- (3) Leave for government service in the public interest;
- (4) Military leave of absence as required by WAC 357-31-370;
- (5) Parental leave as required by WAC 357-31-460;
- (6) Family care emergencies as required by WAC 357-31-295;
- (7) Bereavement or condolence;
- (8) Absence due to inclement weather as provided in WAC 357-31-255;

(9) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 357-19-295;

(10) Serious health condition of an eligible employee's child, spouse, registered domestic partner, or parent as required by WAC 357-31-525;

(11) Leave taken voluntarily to reduce the effect of an employer's layoff;

(12) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability;

(13) Employees receiving time loss compensation; or

(14) For an employee to protect themselves, or a relative or household member, from ~~((risks related to coronavirus disease 2019 (COVID-19))~~ risk of exposure to an infectious or contagious disease. In determining whether to grant leave, an employer may consider current workload demands and business needs that require employees to perform their duties.

AMENDATORY SECTION (Amending WSR 22-24-027, filed 11/30/22, effective 1/1/23)

**WAC 357-31-567 When must an employer grant the use of recognition leave?** (1) An employee's request to use recognition leave must be approved under the following conditions:

(a) An employee must be granted the use of recognition leave if the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730;

(b) In accordance with WAC 357-31-373, an employee must be granted the use of recognition leave to be with a spouse or registered domestic partner who is a member of the Armed Forces of the United States, National Guard, or Reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment;

(c) When requested as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW as provided in WAC 357-31-248. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for approved paid family and/or medical leave under Title 50A RCW;

(d) When a high-risk employee (~~(, as defined in RCW 49.17.062,)~~) seeks ~~((a reasonable))~~ an accommodation to protect themselves from the risk of exposure to an infectious or contagious disease and the employer determines no other accommodation is reasonable besides the use of leave; and

(e) When an employee requests to use recognition leave when granted a temporary leave of absence for legislative service in accordance with WAC 357-31-374(2).

(2) In accordance with the employer's leave policy, approval for the reasons listed in (1)(a) and (b) above may be subject to verification that the condition or circumstance exists.

**WSR 23-24-022**  
**PERMANENT RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed November 28, 2023, 4:41 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The amendments to WAC 357-28-082, 357-28-084, 357-28-086, 357-28-088, 357-28-120, 357-28-135, and 357-28-155 are to clarify certain scenarios based on questions received from stakeholders since inception of step M. On July 1, 2013, new rules were adopted to implement a new step M that was provided in the 2013-2015 operating budget. Step M was originally implemented as a longevity step to allow employees who have been at the top step (step L) in the same salary range for six years to progress to step M. The amendment to WAC 357-31-480 is to update the correct references from RCW 49.78.390 to 50A.15.110. RCW 49.78.390 was repealed in 2018 and therefore is no longer applicable. Parental leave is in addition to any leave for sickness or temporary disability as provided under the Federal Family and Medical Leave Act of 1993 and the Washington Paid Family and Medical Leave Act. The amendment to WAC 357-31-500 is to align with the Washington state law against discrimination, chapter 49.60 RCW, and Title VII of the Civil Rights Act of 1964 or the Pregnancy Discrimination Act. An employee does not have to hold permanent status to qualify for a leave of absence for reasons of pregnancy disability and childbirth. The amendments to WAC 357-31-687 and 357-31-797 are house-keeping in nature. The amendment to WAC 357-58-141 is changing the word "and" to "or." This will clarify that location-based premium must be paid when a Washington management service employee is assigned to work on McNeil Island **or** when an employee is assigned to a permanent duty station in King County.

Citation of Rules Affected by this Order: Amending WAC 357-28-082, 357-28-084, 357-28-086, 357-28-088, 357-28-120, 357-28-135, 357-28-155, 357-31-480, 357-31-500, 357-31-687, 357-31-797, and 357-58-141.

Statutory Authority for Adoption: RCW 41.06.133 and 41.06.150.

Adopted under notice filed as WSR 23-20-074 on September 29, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 12, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 12, Repealed 0.

Date Adopted: November 28, 2023.

Nathan Sherrard  
Assistant Legal Affairs Counsel

OTS-4482.5

AMENDATORY SECTION (Amending WSR 14-24-026, filed 11/21/14, effective 12/22/14)

**WAC 357-28-082 Is step M on the salary schedule different than other salary steps?** Step M is a longevity step. An employee cannot be appointed to step M upon initial hire unless for recruitment and retention or other business related reasons in accordance with WAC 357-28-090.

AMENDATORY SECTION (Amending WSR 13-19-043, filed 9/13/13, effective 10/18/13)

**WAC 357-28-084 ((Can)) May an employee be appointed to step M upon demotion (voluntary or involuntary)?** An employee cannot be appointed to step M upon demotion (voluntary or involuntary) unless:

(1) The employee was at step M of the salary range from which the employee is demoting ((or));

(2) The employee was previously at step M in the salary range of the class the employee is demoting to;

(3) The demotion is a result of a reasonable accommodation;

(4) The employee was appointed to a position due to layoff action in accordance with WAC 357-28-135; or

(5) It is for recruitment and retention or other business related reasons in accordance with WAC 357-28-090.

AMENDATORY SECTION (Amending WSR 13-19-043, filed 9/13/13, effective 10/18/13)

**WAC 357-28-086 When may an employee progress to step M of the salary range?** (1) If an employee is currently at step L of a salary range, the employee will progress to step M of that same salary range six years from the date they were advanced or appointed to step L. The progression to step M is regardless of what has transpired in the six years since the employee was appointed to step L, provided that the employee is at step L in the same pay range as the pay range the employee was in at the beginning of the six-year period except in accordance with WAC 357-28-088.

(2) With director approval, higher education institutions may make all movements to step M effective:

(a) The first of the current month for actions occurring between the first and the ~~((fifteenth))~~ 15th of the month; or

(b) The first of the following month for actions occurring between the ~~((sixteenth))~~ 16th and the end of the month.



AMENDATORY SECTION (Amending WSR 14-24-026, filed 11/21/14, effective 12/22/14)

**WAC 357-28-088** **If an employee transfers or demotes will the time spent at step L count towards the six years to qualify for step M in the new position?** If an employee transfers to a position the time at step L in the previous position will count towards the six years to qualify for step M in the new position.

If an employee is demoted (voluntary or involuntary), the time at step L in the previous position will not count towards the six years to qualify for step M except if the demotion is a result of a reasonable accommodation or due to layoff action in accordance with WAC 357-28-135((2)) (4).

AMENDATORY SECTION (Amending WSR 14-24-026, filed 11/21/14, effective 12/22/14)

**WAC 357-28-120** **What is the base salary of an employee occupying a position that is reallocated to a class with the same or lower salary range?** An employee occupying a position that is reallocated to a class with the same or lower salary range must be placed within the new salary range at an amount equal to ((his/her)) their previous base salary. If the previous base salary exceeds the new salary range, the employee's base salary must be set equal to step M of the salary range for the reallocated position. The employee's base salary may be set higher than step M if allowed by the employer's salary determination policy, but not exceeding the previous base salary, ((if allowed by the employer's salary determination policy)) until such time as the employee vacates the position or their salary falls within the new salary range.

AMENDATORY SECTION (Amending WSR 14-24-026, filed 11/21/14, effective 12/22/14)

**WAC 357-28-135** **How is an employee's salary determined when the employee is appointed to a position due to a layoff action?** (1) The base salary of an employee ((appointed to a position due to a layoff action must be)) who accepts a layoff option must have their salary determined as follows:

((1)) (a) An employee who accepts a layoff option to a different position with the same salary range keeps the same base salary.

((2)) (b) An employee who ((accepts a demotion in lieu of layoff or)) accepts a layoff option to a position with a lower salary range maximum must be placed within the new range at a salary equal to the employee's previous base salary. If the previous base salary exceeds the new range, the employee's base salary must be set equal to step M of the new salary range((. If the employee's previous base salary was at step M of the salary range the employee must be placed at step M of the new salary range)).

((3)) (2) The base salary of an employee who is appointed from an internal or statewide layoff list must have their salary determined as follows:

(a) An employee who is appointed to a position with the same range as the position from which the employee was laid off must be placed within the range at a salary equal to the employee's previous base salary.

~~((4))~~ (b) An employee who is appointed ((from an internal or statewide layoff list)) to a position with a lower range maximum than the position from which the employee was laid off must have the salary determined by the employer's salary determination policy.

(3) An employee whose previous base salary was at step M of a salary range when accepting a layoff option to a position with a lower salary range maximum at the time of being appointed must be placed at step M of the new salary range.

(4) An employee whose previous base salary was at step L of a salary range when accepting a layoff option to a position with a lower salary range, any previous time spent at step L will count towards the requirement to get to step M of the new salary range.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

**WAC 357-28-155 How is an employee's salary determined upon demotion?** (1) The base salary of an employee who accepts a demotion in lieu of layoff must be set in accordance with WAC 357-28-135.

(2) If the demotion is a result of a reasonable accommodation, they may be appointed to step M in accordance with WAC 357-28-084.

(3) An employee demoted for any other reason must be paid within the salary range of the class to which the position is allocated. The employee's base salary must be determined in accordance with the employer's salary determination policy.

#### OTS-4543.4

AMENDATORY SECTION (Amending WSR 08-07-062, filed 3/17/08, effective 4/18/08)

**WAC 357-31-480 Is parental leave in addition to any leave for sickness or temporary disability because of pregnancy and/or childbirth?** ~~((Under RCW 49.78.390,))~~ Consistent with RCW 50A.15.110, parental leave under Title 50A RCW and the family leave required by the Federal Family and Medical Leave Act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) must be in addition to any leave for sickness or temporary disability because of pregnancy or childbirth as provided in WAC 357-31-500.

AMENDATORY SECTION (Amending WSR 05-08-140, filed 4/6/05, effective 7/1/05)

**WAC 357-31-500 When must disability leave due to pregnancy and/or childbirth be granted?** Leave of absence must be granted for

the period of time that (~~a permanent~~) an employee is sick or temporarily disabled because of pregnancy and/or childbirth.

AMENDATORY SECTION (Amending WSR 22-01-022, filed 12/3/21, effective 7/1/22)

**WAC 357-31-687 Must employees use their own leave before receiving shared leave from the uniformed service shared leave pool?** Employees who are eligible to receive shared leave from the uniformed service shared leave pool must first use all accrued compensatory time, accrued holiday credit, recognition leave as described in WAC 357-31-565, and personal holiday(~~(, vacation leave, and paid military leave allowed under RCW 38.40.060)~~) before receiving shared leave from the uniformed service shared leave pool. The employee is not required to deplete all of their accrued vacation leave and paid military leave allowed under RCW 38.40.060 and can maintain up to 40 hours of vacation leave and 40 hours of paid military leave.

AMENDATORY SECTION (Amending WSR 22-01-022, filed 12/3/21, effective 7/1/22)

**WAC 357-31-797 Must employees use their own leave before receiving shared leave from the veterans' in-state service shared leave pool?** Employees who are eligible to receive shared leave from the veterans' in-state service shared leave pool must first use all accrued compensatory time, accrued holiday credit, recognition leave as described in WAC 357-31-565, and personal holiday(~~(, sick leave, and vacation leave)~~) before receiving shared leave from the veterans' in-state service shared leave pool. The employee is not required to deplete all of their accrued vacation leave and sick leave and can maintain up to 40 hours of vacation leave and 40 hours of sick leave.

### OTS-4225.3

AMENDATORY SECTION (Amending WSR 19-17-040, filed 8/15/19, effective 9/23/19)

**WAC 357-58-141 When must a Washington management service (WMS) employee receive location based premium pay?** Location based premium pay at the rate specified in the compensation plan must be paid when a WMS employee is:

(1) Assigned to work on McNeil Island at the special commitment center and for each day the employee is physically working on the island. Days in paid status not working on the island will not qualify for premium pay; (~~and~~) or

(2) Assigned to a permanent duty station in King County. When an employee is no longer permanently assigned to a King County duty station they will not be eligible for location based premium pay.

**WSR 23-24-023**  
**PERMANENT RULES**  
**OFFICE OF**

**FINANCIAL MANAGEMENT**

[Filed November 28, 2023, 4:41 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: ESSB [E2SHB] 1320 passed during the 2021 legislative session, chapter 215, Laws of 2021. The act modernized, harmonized, and improved the efficacy and accessibility of laws concerning civil protection orders. In part, the act repealed chapter 26.50 RCW, Domestic violence prevention, and amended RCW 46.76.020 Domestic violence leave, to define dating relationship in accordance with RCW 7.105.010. The amendment to WAC 357-01-172 Definition family member, is to replace the reference to RCW 26.50.010 with 49.76.020.

Citation of Rules Affected by this Order: Amending WAC 357-01-172.

Statutory Authority for Adoption: RCW 41.06.133.

Adopted under notice filed as WSR 23-20-076 on September 29, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 28, 2023.

Nathan Sherrard  
Assistant Legal Affairs Counsel

**OTS-4893.1**

AMENDATORY SECTION (Amending WSR 18-05-032, filed 2/10/18, effective 3/13/18)

**WAC 357-01-172 Family members.** Individuals considered to be members of the family are parent, sibling, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, minor/dependent child, and child. For the purpose of domestic violence, sexual assault, or stalking provisions within Title 357 WAC family member also includes a domestic partner as defined in RCW 26.60.020 or a person with whom the employee has a dating relationship as defined in RCW ((26.50.010)) 49.76.020.

**WSR 23-24-024**  
**PERMANENT RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed November 28, 2023, 4:41 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: ESSB 5761 passed during the 2022 legislative session, chapter 242, Laws of 2022, with an effective date of January 1, 2023. The bill amends RCW 49.58.110, to state an employer must disclose the wage scale and salary range, and provide a general description of all the benefits or other compensation in each posting for a job opening. ESSB 5761 also states upon request of an employee who is offered an internal transfer to a new position or promotion that the employer must provide the employee with the wage scale or the salary range of the position they would be transferring into. Amendments to WAC 357-19-377 and 357-19-380 were inadvertently missed in 2019 on WSR 20-06-009, effective March 30, 2020. The amendments align Title 357 WAC with the requirements of the new law. The amendment to WAC 357-16-017 is to repeal the requirement for an employer to provide the salary range or management band upon request of an individual for employment after an employer has initially offered the individual the position; add language to require an employer to disclose the salary range or management band in each job posting, which includes a general description of all the benefits and other compensation; and to define the terms "salary range" and "management band" for the section. The amendment to WAC 357-16-220 is to define "negotiation" to include an offer of employment with compensation by the employer and acceptance of the offer by the applicant. This change aligns with Washington state department of labor and industries' interpretation that an offer of employment with compensation by the employer and acceptance of the offer by the applicant would constitute the element of "negotiation." The amendment to WAC 357-19-377 is to add subsection (5) to require nonpermanent appointments to be in compliance with the requirements governing wage and salary information. The amendment to WAC 357-19-380 is to state other chapters of the civil service rules may apply to nonpermanent employees where specifically stated.

Citation of Rules Affected by this Order: Amending WAC 357-16-017, 357-16-220, 357-19-377, and 357-19-380.

Statutory Authority for Adoption: RCW 41.06.133 and 41.06.150.

Other Authority: RCW 49.58.100 and 49.58.110.

Adopted under notice filed as WSR 23-20-078 on September 29, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: November 29, 2023.

Nathan Sherrard  
Assistant Legal Affairs Counsel

**OTS-4591.1**

AMENDATORY SECTION (Amending WSR 20-06-009, filed 2/20/20, effective 3/30/20)

**WAC 357-16-017 When must an employer ((provide)) disclose the salary range or management band, other compensation and a description of benefits for a position?** In accordance with RCW 49.58.110, an employer must ((provide)) disclose the salary range or management band in the following circumstances:

(1) ~~((Upon request of an individual for employment after an employer has initially offered the individual the position))~~ In each job posting which includes a general description of all the benefits and other compensation; and

(2) Upon request of a current employee who is offered an appointment to another position.

~~((If no salary range or management band exists, an employer must provide the minimum wage set by the employer prior to posting the position or appointing an employee to another position.))~~

(3) For the purposes of this section:

(a) "Employer" also includes those employers with fewer than ~~((fifteen))~~ 15 employees;

(b) "Salary range" includes Step M; and

(c) "Management band" is the most reasonable and genuinely expected range that an agency has identified within their salary administration policy for Washington management services.

AMENDATORY SECTION (Amending WSR 20-06-009, filed 2/20/20, effective 3/30/20)

**WAC 357-16-220 May an employer confirm an individual's wage or salary history?** In accordance with RCW 49.58.100, an employer may confirm an individual's wage or salary history if:

(1) The individual has voluntarily disclosed their wage or salary history; or

(2) After the employer has negotiated an offer and made an offer of employment including compensation to the individual. Negotiation includes an offer of employment with compensation by the employer and acceptance of the offer by the applicant.

For the purposes of this section "employer" also includes those employers with fewer than ~~((fifteen))~~ 15 employees.

**OTS-4592.1**

AMENDATORY SECTION (Amending WSR 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

**WAC 357-19-377 What provisions apply to nonpermanent appointments?** Nonpermanent appointments are subject to the following provisions:

(1) Nonpermanent appointees must meet the competencies and other requirements of the position to which they are appointed.

(2) Nonpermanent appointments may be filled on a noncompetitive basis which means the employer is not required to comply with the rules on recruitment, assessment and certification as provided in chapter 357-16 WAC.

(3) Nonpermanent appointments may be filled using the competitive process specified in chapter 357-16 WAC as long as the eligible applicant indicates a willingness to accept a nonpermanent appointment.

(4) Employers may underfill a position with a nonpermanent appointment.

(5) Ensure compliance with requirements governing wage and salary information in accordance with RCW 49.58.100, 49.58.110, WAC 357-16-017, 357-16-215, and 357-16-220.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-380 What provisions of the civil service rules apply to nonpermanent employees?** The leave and holiday provisions of chapter 357-31 WAC and compensation provisions of chapter 357-28 WAC apply to employees in nonpermanent appointments. Other chapters of civil service rules may apply where specifically stated.

**WSR 23-24-026  
PERMANENT RULES  
HEALTH CARE AUTHORITY**

[Filed November 29, 2023, 8:24 a.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The health care authority (HCA) is reviewing these rules and amending them as needed to comply with the CURES Act of 2016; P.L. 114-255, which implements the electronic visit verification requirement for home health care service claims to be paid. In addition, HCA is amending chapter 182-551 WAC to update the rules to be consistent with the other rules for administration of the medicaid program.

Citation of Rules Affected by this Order: Repealing WAC 182-551-2140; and amending WAC 182-502-0002, 182-502-0100, 182-538-070, 182-551-2000, 182-551-2010, 182-551-2020, 182-551-2030, 182-551-2040, 182-551-2100, 182-551-2110, 182-551-2115, 182-551-2120, 182-551-2122, 182-551-2125, 182-551-2130, 182-551-2200, 182-551-2210, and 182-551-2220.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: P.L. 114-255.

Adopted under notice filed as WSR 23-19-051 on September 14, 2023.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
<b>WAC 182-551-2000(4)</b>		
Proposed	Home health skilled services are ( <del>provided</del> ) <u>authorized only</u> for acute, intermittent, short-term, and intensive courses of treatment.	As a result of stakeholder comment, removed the proposed addition of " <i>authorized only</i> " to avoid confusion.
Adopted	Home health skilled services are acute, intermittent, short-term, and intensive courses of treatment.	
<b>WAC 182-551-2030(1)</b>		
Proposed	The medicaid agency covers, <u>authorizes, and pays for</u> home health skilled services provided to eligible clients, subject to the provisions in this section and other applicable published WAC.	As a result of stakeholder comment, removed the proposed addition of " <i>authorizes and pays for</i> " to avoid confusion.
Adopted	The medicaid agency covers home health skilled services provided to eligible clients, subject to the provisions in this section and other applicable published WAC.	
<b>WAC 182-551-2030(2)</b>		
Proposed	Home health skilled services provided to eligible clients ( <del>must</del> ) <u>are authorized only when covered and medically necessary based on program rules and the following criteria:</u>	As a result of stakeholder comment, removed the proposed language " <i>are authorized only when covered and medically necessary based on program rules and the following criteria.</i> " All health care services provided to medicaid clients must be medically necessary and billed in accordance with agency program rules to be paid. See WAC 182-501-0050.
Adopted	Home health skilled services provided to eligible clients must:	
<b>WAC 182-551-2030 (2)(c)</b>		
Proposed	( <del>Be medically necessary as defined in WAC 182-500-0070.</del> )	As a result of stakeholder comment, HCA revised the sentence, keeping in the proposed struck out portion.
Adopted	Be medically necessary as defined in WAC 182-500-0070 and the process outlined in WAC 182-501-0165.	
<b>WAC 182-551-2040(1)</b>		



Proposed/Adopted	WAC Subsection	Reason
Proposed	The (( <del>face-to-face encounter requirements of this section may be met using telemedicine services. See WAC 182-551-2125</del> )) <u>medicaid agency authorizes and pays for home health services provided under this chapter only when the face-to-face encounter requirements in this section are met.</u>	As a result of stakeholder comment, removed the proposed language " <i>authorizes and</i> " to avoid confusion.
Adopted	The medicaid agency pays for home health services provided under this chapter only when the face-to-face encounter requirements in this section are met.	
<b>WAC 182-551-2100(1)</b>		
Proposed	The medicaid agency covers (( <del>the</del> )) and pays for home health (( <del>acute care</del> )) skilled nursing services without prior authorization <u>up to service limitations.</u>	As a result of stakeholder comment, removed the proposed language " <i>and pays for.</i> "
Adopted	The medicaid agency covers home health skilled nursing services up to service limitations without prior authorization.	
<b>WAC 182-551-2100(3)</b>		
Proposed	The medicaid agency covers, <u>authorizes, and pays for the following home health ((<del>acute care</del>)) skilled nursing services, subject to program rules and the provisions in this section:</u>	As a result of stakeholder comment, removed the proposed language " <i>authorizes and</i> " to avoid confusion.
Adopted	The medicaid agency pays for the following home health skilled nursing services, subject to program rules and the provisions in this section:	
<b>WAC 182-551-2100(4)</b>		
Proposed	The medicaid agency limits <u>authorization of</u> skilled nursing visits provided to eligible clients to two per day.	As a result of stakeholder comment, removed the proposed language " <i>authorization of</i> " and revised the sentence to read " <i>pays for up to two.</i> "
Adopted	The medicaid agency pays for up to two skilled nursing visits, per client, per day.	
<b>WAC 182-551-2110(1)</b>		
Proposed	The medicaid agency covers, <u>authorizes, and pays for outpatient rehabilitation and habilitative services <u>only when provided:</u></u>	As a result of stakeholder comment, removed the proposed language " <i>authorizes and pays for</i> " to avoid confusion.
Adopted	The medicaid agency covers outpatient rehabilitation and habilitative services only when provided;	
<b>WAC 182-551-2110(3)</b>		
Proposed	<u>The medicaid agency limits authorization of the same type of specialized therapy to one per day for eligible clients.</u>	As a result of stakeholder comment, removed proposed language " <i>authorization</i> " and replaced with " <i>payment</i> " to reflect meaning more accurately.
Adopted	The medicaid agency limits payment of the same type of specialized therapy to one per day for eligible clients.	
<b>WAC 182-551-2110(4)</b>		
Proposed	<u>The medicaid agency limits authorization of specialized therapy to once per day when there are two or more providers performing the same or similar procedure or procedures for the same client.</u>	As a result of stakeholder comment, removed proposed language " <i>authorization</i> " and replaced with " <i>payment</i> " to reflect meaning more accurately.
Adopted	The medicaid agency limits payment of specialized therapy to once per day when there are two or more providers performing the same or similar procedure or procedures for the same client.	
<b>WAC 182-551-2115(1)</b>		

Proposed/Adopted	WAC Subsection	Reason
Proposed	((Subject to funding appropriated by the legislature.)) <u>The medicaid agency covers, authorizes, and pays for medical social services, as defined in WAC 182-551-2010, provided by a home health agency in any setting where normal life activities take place under program rules, including the rules in this chapter.</u>	As a result of stakeholder comment, removed the proposed language " <i>authorizes and pays for</i> " to avoid confusion.
Adopted	The medicaid agency covers medical social services under program rules, including the rules in this chapter.	
<b>WAC 182-551-2120 (1), (2), (3)</b>		
Proposed	(1) <del>The medicaid agency covers and pays for ((one)) home health aide ((visit, per client per day. Additional services require prior authorization and are granted if medically necessary, as defined in WAC 182-500-0070)) services, one visit per client, per day under program rules, including the rules in this chapter.</del> (2) <del>The medicaid agency ((pays for home health aide services, as defined in WAC 182-551-2010, in any setting where normal life activities take place)) may authorize additional services on a case-by-case basis under WAC 182-501-0169.</del>	As a result of stakeholder comments, HCA revised this language and split it into three subsections.
Adopted	(1) The medicaid agency covers home health aide services. (2) HCA pays for one visit, per client, per day under program rules, including the rules in this chapter. (3) The medicaid agency may authorize additional services on a case-by-case basis under WAC 182-501-0169.	
<b>WAC 182-551-2122</b>		
Proposed	The <del>((medical agency's home health program)) medicaid agency covers, authorizes, and pays for</del> medical supplies, equipment, and appliances, as defined and described in chapter 182-543 WAC <del>(, that are suitable for use in any setting in which normal life activities take place)).</del>	As a result of stakeholder comment, removed the proposed language " <i>authorizes and pays for</i> " to avoid confusion.
Adopted	The medicaid agency covers medical supplies, equipment, and appliances, as defined and described in chapter 182-543 WAC.	
<b>WAC 182-551-2125(1)</b>		
Proposed	The medicaid agency <del>((covers))</del> <u>authorizes</u> the delivery of <u>one</u> home health service <del>((s))</del> through telemedicine <del>((for clients who have been))</del> , per eligible client, per day, under WAC 182-501-0300 and the requirements in this section.	As a result of stakeholder comment, removed the proposed language " <i>authorizes</i> " and replaced with " <i>pays for</i> " to avoid confusion.
Adopted	The medicaid agency pays for the delivery of one home health service through telemedicine, per eligible client, per day, under WAC 182-501-0300 and the requirements in this section.	
<b>WAC 182-551-2210(1)</b>		
Proposed	For any <del>((delivered))</del> home health services to be <u>authorized and payable</u> , the medicaid agency requires home health providers to develop and implement an individualized plan of care (POC) for the client.	As a result of stakeholder comment, removed the proposed language " <i>authorized and</i> " to avoid confusion.
Adopted	For any home health service to be payable, the medicaid agency requires home health providers to develop and implement an individualized plan of care (POC) for the client.	
<b>WAC 182-551-2220(6)</b>		

Proposed/Adopted	WAC Subsection	Reason
Proposed	After the medicaid agency receives the documentation, the medicaid (( <del>agency's medical director</del> )) <u>agency</u> or designee reviews the client's medical records for program compliance and quality of care.	To align with the definition of <i>agency's designee</i> found in WAC 182-500-0010, added the word "agency's" before the word "designee."
Adopted	After the medicaid agency receives the documentation, the medicaid agency or the agency's designee reviews the client's medical records for program compliance and quality of care.	
<b>WAC 182-551-2220(7)</b>		
Proposed	The medicaid agency may take back or deny payment for any insufficiently documented home health care service when the medicaid (( <del>agency's medical director</del> )) <u>agency</u> or designee determines that:	To align with the definition of <i>agency's designee</i> found in WAC 182-500-0010, added the word "agency's" before the word "designee."
Adopted	The medicaid agency may take back or deny payment for any insufficiently documented home health care service when the medicaid agency or the agency's designee determines that:	

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 5, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 18, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 18, Repealed 1.

Date Adopted: November 29, 2023.

Wendy Barcus  
Rules Coordinator

**OTS-4793.2**

AMENDATORY SECTION (Amending WSR 23-04-071, filed 1/30/23, effective 3/2/23)

**WAC 182-502-0002 Eligible provider types.** The following health care professionals, health care entities, suppliers or contractors of service may request enrollment with the Washington state health care authority (medicaid agency) to provide covered health care services to eligible clients. For the purposes of this chapter, health care services include treatment, equipment, related supplies, and drugs.

(1) Professionals:

(a) Advanced registered nurse practitioners;

(b) Anesthesiologists;

(c) Applied behavior analysis (ABA) professionals, as provided in WAC 182-531A-0800:

(i) Licensed behavior analyst;

- (ii) Licensed assistant behavior analyst; and
- (iii) Certified behavior technician.
- (d) Audiologists;
- (e) ~~((Substance use disorder professionals:~~
  - ~~(i) Mental health providers; and~~
  - ~~(ii) Peer counselors.~~
  - ~~(f))~~ Chiropractors;
  - ~~((g))~~ (f) Dentists;
  - ~~((h))~~ (g) Dental health aide therapists, as provided in chapter 70.350 RCW;
  - ~~((i))~~ (h) Dental hygienists;
  - ~~((j))~~ (i) Denturists;
  - ~~((k))~~ (j) Dietitians or nutritionists;
  - ~~((l))~~ (k) Hearing aid fitters/dispensers;
  - (l) Home health aide credentialed with DOH as nursing assistant certified or nursing assistant registered;
  - (m) Licensed practical nurse;
  - (n) Marriage and family therapists;
  - ~~((n))~~ (o) Mental health counselors;
  - ~~((o))~~ (p) Mental health care providers;
  - ~~((p))~~ (q) Midwives;
  - ~~((q))~~ (r) Naturopathic physicians;
  - ~~((r))~~ (s) Nurse anesthetist;
  - ~~((s))~~ (t) Ocularists;
  - ~~((t))~~ (u) Occupational therapists;
  - ~~((u))~~ (v) Ophthalmologists;
  - ~~((v))~~ (w) Opticians;
  - ~~((w))~~ (x) Optometrists;
  - ~~((x))~~ (y) Orthodontists;
  - ~~((y))~~ (z) Orthotist;
  - ~~((z))~~ (aa) Osteopathic physicians;
  - ~~((aa))~~ (bb) Osteopathic physician assistants;
  - ~~((bb))~~ (cc) Peer counselors;
  - ~~((cc))~~ (dd) Podiatric physicians;
  - ~~((dd))~~ (ee) Pharmacists;
  - ~~((ee))~~ (ff) Physicians;
  - ~~((ff))~~ (gg) Physician assistants;
  - ~~((gg))~~ (hh) Physical therapists;
  - ~~((hh))~~ (ii) Prosthetist;
  - ~~((ii))~~ (jj) Psychiatrists;
  - ~~((jj))~~ (kk) Psychologists;
  - ~~((kk))~~ (ll) Radiologists;
  - ~~((ll))~~ (mm) Registered nurse;
  - (nn) Registered nurse delegators;
  - ~~((mm))~~ (oo) Registered nurse first assistants;
  - ~~((nn))~~ (pp) Respiratory therapists;
  - ~~((oo))~~ (qq) Social workers; and
  - ~~((pp))~~ (rr) Speech/language pathologists;
  - (ss) Substance use disorder professionals:
    - (i) Mental health providers; and
    - (ii) Peer counselors.
  - (2) Agencies, centers and facilities:
    - (a) Adult day health centers;
    - (b) Ambulance services (ground and air);
    - (c) Ambulatory surgery centers (medicare-certified);
    - (d) Birthing centers (licensed by the department of health);
    - (e) Cardiac diagnostic centers;

- (f) Case management agencies;
  - (g) Substance use disorder treatment facilities certified by the department of health (DOH);
  - (h) Withdrawal management treatment facilities certified by DOH;
  - (i) Community AIDS services alternative agencies;
  - (j) Community mental health centers;
  - (k) Diagnostic centers;
  - (l) Early and periodic screening, diagnosis, and treatment (EPSDT) clinics;
  - (m) Family planning clinics;
  - (n) Federally qualified health centers (designated by the federal department of health and human services);
  - (o) Genetic counseling agencies;
  - (p) Health departments;
  - (q) Health maintenance organization (HMO)/managed care organization (MCO);
  - (r) HIV/AIDS case management;
  - (s) Home health agencies;
  - (t) Hospice agencies;
  - (u) Hospitals;
  - (v) Indian health service facilities/tribal 638 facilities;
  - (w) Tribal or urban Indian clinics;
  - (x) Inpatient psychiatric facilities;
  - (y) Intermediate care facilities for individuals with intellectual disabilities (ICF-IID);
  - (z) Kidney centers;
  - (aa) Laboratories (CLIA certified);
  - (bb) Maternity support services agencies; maternity case managers; infant case management, first steps providers;
  - (cc) Neuromuscular and neurodevelopmental centers;
  - (dd) Nurse services/delegation;
  - (ee) Nursing facilities (approved by the DSHS aging and long-term support administration);
  - (ff) Pathology laboratories;
  - (gg) Pharmacies;
  - (hh) Private duty nursing agencies;
  - (ii) Radiology - Stand-alone clinics;
  - (jj) Rural health clinics (medicare-certified);
  - (kk) School districts and educational service districts;
  - (ll) Sleep study centers; and
  - (mm) Washington state school districts and educational service districts.
- (3) Suppliers of:
- (a) Blood, blood products, and related services;
  - (b) Durable and nondurable medical equipment and supplies;
  - (c) Complex rehabilitation technologies;
  - (d) Infusion therapy equipment and supplies;
  - (e) Prosthetics/orthotics;
  - (f) Hearing aids; and
  - (g) Respiratory care, equipment, and supplies.
- (4) Contractors:
- (a) Transportation brokers;
  - (b) Spoken language interpreter services agencies;
  - (c) Independent sign language interpreters; and
  - (d) Eyeglass and contact lens providers.

AMENDATORY SECTION (Amending WSR 15-14-039, filed 6/24/15, effective 7/25/15)

**WAC 182-502-0100 General conditions of payment.** (1) The medic-aid agency reimburses for medical services furnished to an eligible client when all the following apply:

(a) The service is within the scope of care of the client's Washington apple health program;

(b) The service is medically (~~or dentally~~) necessary;

(c) The service is properly authorized;

(d) The provider bills within the time frame set in WAC 182-502-0150;

(e) The provider bills according to agency rules and billing instructions; and

(f) The provider follows third-party payment procedures.

(2) The agency is the payer of last resort, unless the other payer is:

(a) An Indian health service;

(b) A crime victims program through the department of labor and industries; or

(c) A school district for health services provided under the Individuals with Disabilities Education Act.

(3) The agency does not reimburse providers for medical services identified by the agency as client financial obligations, and deducts from the payment the costs of those services identified as client financial obligations. Client financial obligations include, but are not limited to, the following:

(a) Copayments (copays) (unless the criteria in chapter 182-517 WAC or WAC 182-501-0200 are met);

(b) Deductibles (unless the criteria in chapter 182-517 WAC or WAC 182-501-0200 are met); and

(c) Spenddown (see WAC 182-519-0110).

(4) The provider must accept medicare assignment for claims involving clients eligible for both medicare and Washington apple health before the agency makes any payment.

(5) The provider is responsible for verifying whether a client has Washington apple health coverage for the dates of service.

(6) The agency may reimburse a provider for services provided to a person if it is later determined that the person was ineligible for the service when it was provided if:

(a) The agency considered the person eligible at the time of service;

(b) The service was not otherwise paid for; and

(c) The provider submits a request for payment to the agency.

(7) The agency does not pay on a fee-for-service basis for a service for a client who is enrolled in a managed care plan when the service is included in the plan's contract with the agency.

(8) Information about medical care for jail inmates is found in RCW 70.48.130.

(9) The agency pays for medically necessary services on the basis of usual and customary charges or the maximum allowable fee established by the agency, whichever is lower.

**OTS-4794.2**

AMENDATORY SECTION (Amending WSR 23-03-063, filed 1/12/23, effective 2/12/23)

**WAC 182-538-070 Payments, corrective action, and sanctions for managed care organizations (MCOs).** (1) The medicaid agency pays apple health managed care organizations (MCOs) monthly capitated premiums that:

(a) Have been developed using generally accepted actuarial principles and practices;

(b) Are appropriate for the populations to be covered and the services to be furnished under the MCO contract;

(c) Have been certified by actuaries who meet the qualification standards established by the American Academy of Actuaries and follow the practice standards established by the Actuarial Standards Board;

(d) Are based on analysis of historical cost, rate information, or both; and

(e) Are paid based on legislative allocations.

(2) The MCO is solely responsible for payment of MCO-contracted health care services. The agency will not pay for a service that is the MCO's responsibility, even if the MCO has not paid the provider for the service.

(3) Home health services delivered through MCOs involving an in-home visit by a provider require the provider to comply with electronic visit verification requirements. See WAC 182-551-2220.

(4) The agency pays MCOs a service-based enhancement rate for wraparound with intensive services (WISe) administered by a certified WISe provider who holds a current behavioral health agency license issued by the department of health under chapter 246-341 WAC.

~~((4))~~ (5) For crisis services, the MCO must determine whether the person receiving the services is eligible for Washington apple health or if the person has other insurance coverage.

~~((5))~~ (6) The agency may require corrective action for:

(a) Substandard rates of clinical performance measures;

(b) Deficiencies found in audits and on-site visits; or

(c) Findings of noncompliance with any contractual, state, or federal requirements.

~~((6))~~ (7) The agency may:

(a) Impose sanctions for an MCO's noncompliance with any contractual, state, or federal requirements including, but not limited to, intermediate sanctions as described in 42 C.F.R. Sec. 438.700 and 42 C.F.R. Sec. 438.702; and

(b) Apply a monthly penalty assessment associated with poor performance on selected behavioral health performance measures.

~~((7))~~ (8) As authorized by 42 C.F.R. Sec. 438.702(b), if an MCO fails to meet any material obligation under the MCO contract including, but not limited to, the items listed in 42 C.F.R. Sec. 438.700

(b), (c), or (d), the agency may impose the maximum allowable sanction on a per-occurrence, per-day basis until the agency determines the MCO has:

(a) Corrected the violation; and

(b) Remedied any harm caused by the noncompliance.

~~((8))~~ (9) The agency pays an enhancement rate for each MCO enrollee assigned to a federally qualified health center or rural health clinic, as authorized under chapters 182-548 and 182-549 WAC.

~~((9))~~ (10) The agency pays MCOs a delivery case rate, separate from the capitation payment, when an enrollee delivers a child or children and the MCO pays for any part of labor and delivery.

OTS-4795.5

AMENDATORY SECTION (Amending WSR 22-05-048, filed 2/9/22, effective 3/12/22)

**WAC 182-551-2000 General.** (1) The purpose of the medicaid agency's home health services program is to reduce the costs of health care services by providing equally effective, less restrictive quality care to the client in any setting where normal life activities take place, subject to the restrictions and limitations in subchapter II. See also 42 C.F.R. 440.70.

(2) Home health services include the following services and items:

(a) Nursing services, see WAC 182-551-2100;

(b) Home health aide service, see WAC 182-551-2120;

(c) Medical supplies, equipment, and appliances suitable for use in any setting where normal life activities take place, see chapter 182-543 WAC;

(d) Physical therapy, occupational therapy, or speech therapy, see WAC 182-551-2110, and audiology services, see WAC 182-531-0375; and

(e) Medical social services, see WAC 182-551-2115.

(3) A client does not have to be homebound or need nursing or therapy services to receive services under this chapter.

~~((3))~~ (4) Home health skilled services are ((provided for)) acute, intermittent, short-term, and intensive courses of treatment. See chapters 182-514 and 388-71 WAC for programs administered to clients who need chronic, long-term maintenance care.

~~((4))~~ Home health services include the following services and items:

~~(a) Nursing service, see WAC 182-551-2100;~~

~~(b) Home health aide service, see WAC 182-551-2120;~~

~~(c) Medical supplies, equipment, and appliances suitable for use in any setting where normal life activities take place, see chapter 182-543 WAC;~~

~~(d) Physical therapy, occupational therapy, or speech therapy, see WAC 182-551-2110, and audiology services, see WAC 182-531-0375; and~~

~~(e) Medical social services, see WAC 182-551-2115.~~

~~(5) The agency evaluates medical equipment requests for medical necessity according to WAC 182-501-0165.)~~ (5) Home health visits require a written order from an authorized practitioner, unless there is a verbal order that is:

(a) Documented before the visit; and

(b) Signed by the ordering authorized practitioner within 45 calendar days of the order being given.

(6) The medicaid agency evaluates requests for home health services based on medical necessity and other program rules related to medicaid funded services including those found in this chapter, chapters 182-501 and 182-502 WAC.

(7) Home health services, delivered through fee-for-service or managed care, involving an in-home visit by a provider, require the provider to comply with electronic visit verification requirements. See WAC 182-551-2220.

(8) The medicaid agency does not pay for administrative costs billed above the visit rate.



AMENDATORY SECTION (Amending WSR 23-04-048, filed 1/26/23, effective 2/26/23)

**WAC 182-551-2010 Definitions.** The following definitions and abbreviations and those found in chapter 182-500 WAC apply to subchapter II:

**"Acute care"** means care provided by a home health agency for clients who are not medically stable or have not attained a satisfactory level of rehabilitation. These clients require frequent intervention by a registered nurse or licensed therapist.

**"Authorized practitioner"** means:

(a) A physician, nurse practitioner, clinical nurse specialist, or physician assistant who may order and conduct home health services, including face-to-face encounter services; or

(b) A certified nurse midwife under 42 C.F.R. 440.70 when furnished by a home health agency that meets the conditions of participation for medicare who may conduct home health services, including face-to-face encounter services.

**"Brief skilled nursing visit"** means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs only one of the following activities during a visit to a client:

- (a) An injection;
- (b) Blood draw; or
- (c) Placement of medications in containers.

**"Chronic care"** means long-term care for medically stable clients.

**"Electronic visit verification (EVV)"** means, with respect to home health services, a system under which in-home visits conducted as part of delivery of such services are electronically verified with respect to:

- (a) The type of service performed;
- (b) The individual receiving the service;
- (c) The date of the service;
- (d) The location of service delivery;
- (e) The individual providing the service; and
- (f) The time the service begins and ends.

**"Full skilled nursing visit"** means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs one or more of the following activities during a visit to a client:

- (a) Observation;
- (b) Assessment;
- (c) Treatment;
- (d) Teaching;
- (e) Training;
- (f) Management; and
- (g) Evaluation.

**"Home health agency"** means an agency or organization that attests to the satisfaction of the medicaid agency that it meets the requirements for participation in medicare or is certified under the medicare program to provide comprehensive health care on an intermittent or part-time basis to a patient in any setting where the patient's normal life activities take place.

**"Home health aide"** means a person registered or certified as a nursing assistant under chapter 18.88 RCW who, under the direction and supervision of a registered nurse or licensed therapist, assists in the delivery of nursing or therapy related activities, or both.

**"Home health aide services"** means services provided by a home health aide only when a client has an acute, intermittent, short-term need for the services of a registered nurse, physical therapist, occupational therapist, or speech therapist who is employed by or under contract with a home health agency. These services are provided under the supervision of the previously identified authorized practitioners and include, but are not limited to, ambulation and exercise, assistance with self-administered medications, reporting changes in a client's condition and needs, and completing appropriate records.

**"Home health skilled services"** means skilled health care (nursing, specialized therapy, and home health aide) services provided on an intermittent or part-time basis by a ~~((medicare-certified home health agency with a current provider number in any setting where the client's normal life activities take place))~~ home health agency. See also WAC 182-551-2000.

**"Long-term care"** is a generic term referring to various programs and services, including services provided in home and community settings, administered directly or through contract by the department of social and health services' (DSHS) division of developmental disabilities (DDD) or aging and long-term support administration (AL TSA) through home and community services (HCS).

**"Medical social services"** are services delivered by a medical social worker that are intended to resolve social or emotional problems that are expected to be an impediment to the effective treatment of the client's medical condition or rate of recovery. ~~((Medical social services include assessment of the social and emotional factors related to the client's illness, need for care, response to treatment, and adjustment to care; evaluation of the client's home situation, financial resources, and availability of community resources; assistance in obtaining available community resources and financial resources; and counseling the client and family to address emotional issues related to the illness.))~~

**"Medical social worker"** has the same meaning given for "social worker" in WAC 246-335-510.

**"Plan of care (POC)"** (also known as **"plan of treatment (POT)"**) means a written plan of care that is established and periodically reviewed and signed by both an authorized practitioner and a home health agency provider. The plan describes the home health care to be provided in any setting where the client's normal life activities take place. See WAC 182-551-2210.

**"Review period"** means the three-month period the medicaid agency assigns to a home health agency, based on the address of the agency's main office, during which the medicaid agency reviews all claims submitted by that home health agency.

**"Specialized therapy"** means skilled therapy services provided to clients that include:

- (a) Physical;
- (b) Occupational; or
- (c) Speech/audiology services.

(See WAC 182-551-2110.)

**"Telemedicine"** - See WAC 182-501-0300 and 182-551-2125.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2020 Eligibility.** (1) ~~((Clients in the Washington apple health programs listed in the table in WAC 182-501-0060 are eligible to receive home health services))~~ Washington apple health clients are eligible for home health services as identified in the table in WAC 182-501-0060 and subject to the provisions in this chapter.

(2) Clients enrolled in an agency-contracted managed care organization (MCO) receive all home health services through their designated plan. EVV requirements are applicable to the in-home delivery of home health services for clients enrolled in a managed care organization.

~~((2))~~ (3) The agency covers home health services for clients in the alien emergency medical program under WAC 182-507-0120.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2030 Skilled services—Requirements.** (1) The medic-aid agency covers home health skilled services provided to eligible clients, subject to the provisions in this section and other applicable published WAC.

(2) Home health skilled services provided to eligible clients must:

(a) Meet the definition of "acute care" in WAC 182-551-2010 ~~((-))~~;

(b) Provide for the treatment of an illness, injury, or disability ~~((-))~~;

(c) Be medically necessary as defined in WAC 182-500-0070 ~~((-))~~ and the process outlined in WAC 182-501-0165;

(d) Be reasonable, based on the community standard of care, in amount, duration, and frequency ~~((-))~~;

(e) Meet face-to-face requirements described in WAC 182-551-2040 ~~((-))~~;

(f) Be provided under a plan of care (POC), as defined in WAC 182-551-2010 and described in WAC 182-551-2210. Any statement in the POC must be supported by documentation in the client's medical records ~~((-))~~;

(g) Be used to prevent placement in a more restrictive setting ~~((- In addition,))~~;

(h) Be provided in any setting where normal life activities take place; and

(i) The client's medical records must justify the medical reason or reasons that the services should be provided ((and why instructing the client would be most effectively done in any setting)) where the client's normal life activities take place instead of at an ordering physician's office, clinic, or other outpatient setting.

~~((h) Be provided in any setting where normal life activities take place.~~

~~(i) The medicaid agency does not pay for services provided at a hospital, adult day care, skilled nursing facility, intermediate care facility for individuals with intellectual disabilities, or any setting in which payment is or could be made under medicaid for inpatient services that include room and board.~~

~~(ii)) (3) Clients in residential facilities contracted with the state and paid by other programs, such as home and community programs to provide ((limited)) skilled nursing services, are ((not)) eligible for ((medicaid agency funded, limited)) skilled nursing services ((unless the services are prior authorized under WAC 182-501-0165.~~

~~(i) Be provided by:~~

~~(i) A home health agency that is Title XVIII (medicare)-certified;~~

~~(ii) A registered nurse (RN) prior authorized by the medicaid agency when no home health agency exists in the area where a client resides; or~~

~~(iii) An RN authorized by the medicaid agency when the RN cannot contract with a medicare-certified home health agency)) only on a short-term, temporary basis while authorization of these services is pending with the other state programs. Prior authorization is required.~~

AMENDATORY SECTION (Amending WSR 23-04-048, filed 1/26/23, effective 2/26/23)

**WAC 182-551-2040 Face-to-face encounter requirements.** (1) The ~~((face-to-face encounter requirements of this section may be met using telemedicine services. See WAC 182-551-2125))~~ medicaid agency pays for home health services provided under this chapter only when the face-to-face encounter requirements in this section are met.

(2) The ~~((medicaid agency pays for home health services provided under this chapter only when the face-to-face encounter requirements in this section are met))~~ face-to-face encounter requirements of this section may be met using telemedicine services. See WAC 182-551-2125.

(3) For initiation of home health services, with the exception of medical equipment under WAC 182-551-2122, the face-to-face encounter must be related to the primary reason the client requires home health services and must occur within 90 calendar days before or within the 30 calendar days after the start of the home health services.

(4) For the initiation of medical equipment under WAC 182-551-2122, the face-to-face encounter must be related to the primary reason the client requires medical equipment and must occur no more than six months before the start of services.

(5) The face-to-face encounter may be conducted by:

(a) A physician;

(b) A nurse practitioner;

(c) A clinical nurse specialist;

(d) A certified nurse midwife under 42 C.F.R. 440.70 when furnished by a home health agency that meets the conditions of participation for medicare;

(e) A physician assistant; or

(f) The attending acute, or post-acute physician, for beneficiaries admitted to home health immediately after an acute or post-acute stay.

(6) Services may be ordered by:

(a) Physicians;

(b) Nurse practitioners;

(c) Clinical nurse specialists; or

(d) Physician assistants.

(7) For all home health services except medical equipment under WAC 182-551-2122, the physician, nurse practitioner, clinical nurse specialist, or physician assistant responsible for ordering the services must:

(a) Document that the face-to-face encounter, which is related to the primary reason the client requires home health services, occurred within the required time frames described in subsection (3) of this section prior to the start of home health services; and

(b) Indicate the practitioner who conducted the encounter, and the date of the encounter.

(8) For medical equipment under WAC 182-551-2122, (~~except as provided in (b) of this subsection,~~) an ordering physician, nurse practitioner, clinical nurse specialist, physician assistant, or the attending physician when a client is discharged from an acute hospital stay, must:

(a) Document that the face-to-face encounter, which is related to the primary reason the client requires home health services, occurred within the required time frames described in subsection (4) of this section prior to the start of home health services; and

(b) Indicate the practitioner who conducted the encounter, and the date of the encounter.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2100 ((Covered)) Skilled nursing services.** (1) The medicaid agency covers ((the)) home health ((acute care)) skilled nursing services up to service limitations without prior authorization ((subject to the provisions in this section. Additional services require prior authorization and are granted if medically necessary, as defined in WAC 182-500-0070. The agency evaluates a request for home health acute care skilled nursing services that are listed as noncovered:

~~(a) For a person age 21 and older, according to WAC 182-501-0160;~~

~~(b) For a person age 20 and younger, under the early and periodic screening diagnosis and treatment (EPSDT) provisions in chapter 182-543 WAC; and~~

~~(c) For a person age 19 or older that is under emergency related services only, according to WAC 182-507-0120)). See WAC 182-501-0169 for information on limitation extension.~~

(2) The home health ((acute care)) skilled nursing services must be furnished by a qualified provider in any setting where normal life activities take place.

(3) The medicaid agency ((covers)) pays for the following home health ((acute care)) skilled nursing services, subject to program rules and the provisions in this section:

(a) Full skilled nursing services that require the skills of a registered nurse or a licensed practical nurse under the supervision of a registered nurse, if the services involve one or more of the following:

- (i) Observation;
- (ii) Assessment;
- (iii) Treatment;
- (iv) Teaching;
- (v) Training;

- (vi) Management; and
- (vii) Evaluation.
- (b) A brief skilled nursing visit if only one of the following activities is performed during the visit:
  - (i) An injection;
  - (ii) Blood draw; or
  - (iii) Placement of medications in containers (e.g., envelopes, cups, medisets).
- (c) Home infusion therapy only if the client:
  - (i) Is willing and capable of learning and managing the client's infusion care; or
  - (ii) Has a volunteer caregiver willing and capable of learning and managing the client's infusion care.
- (d) Infant phototherapy for an infant diagnosed with hyperbilirubinemia:
  - (i) When provided by a medicaid agency-approved home health agency with an infant phototherapy ((agency)) provider; and
  - (ii) For up to five skilled nursing visits per infant.
- (e) Limited high-risk obstetrical services:
  - (i) For a medical diagnosis that complicates pregnancy and may result in a poor outcome for the (~~mother~~) birth parent, unborn, or newborn;
  - (ii) For up to three home health visits per pregnancy if enrolled in or referred to a first steps maternity support services (MSS) provider. The visits are provided by a registered nurse who has either:
    - (A) National perinatal certification; or
    - (B) A minimum of one year of labor, delivery, and postpartum experience at a hospital within the last five years.
- (4) The medicaid agency (~~limits~~) pays for up to two skilled nursing visits ((provided to eligible clients to two)), per client, per day.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2110 ((Covered)) Specialized therapy.** (1) The medicaid agency covers outpatient rehabilitation and habilitative services only when provided:

(a) By a home health agency; and

(b) In any setting where normal life activities take place.

(2) Outpatient rehabilitation and habilitative services are described in chapter 182-545 WAC. Specialized therapy is defined in WAC 182-551-2010.

(3) The medicaid agency limits payment of the same type of specialized therapy to one per day for eligible clients.

(4) The medicaid agency limits payment of specialized therapy to once per day when there are two or more providers performing the same or similar procedure or procedures for the same client.

AMENDATORY SECTION (Amending WSR 22-05-048, filed 2/9/22, effective 3/12/22)

**WAC 182-551-2115 ((Covered)) Medical social services.** (1)

~~((Subject to funding appropriated by the legislature,))~~ The medicaid agency covers medical social services ~~((, as defined in WAC 182-551-2010, provided by a home health agency in any setting where normal life activities take place))~~ under program rules, including the rules in this chapter.

(2) Medical social services include the following:

(a) Assessment of the social and emotional factors related to the client's illness;

(b) Need for care, response to treatment, and adjustment to care;

(c) Evaluation of the client's home situation, financial resources, and availability of community resources;

(d) Assistance in obtaining available community resources and financial resources; and

(e) Counseling the client and family to address emotional issues related to the illness.

(3) The medicaid agency pays for up to eight 15-minute units per 365-day period without prior authorization.

(4) The medicaid agency ~~((pays for))~~ may authorize additional services ~~((with prior authorization))~~ on a case-by-case basis ~~((when medically necessary))~~ under WAC 182-501-0169.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2120 ((Covered)) Aide services.** (1) The medicaid agency ~~((pays for one))~~ covers home health aide ~~((visit, per client per day. Additional services require prior authorization and are granted if medically necessary, as defined in WAC 182-500-0070))~~ services.

(2) The agency pays for one visit per client, per day under program rules, including the rules in this chapter.

(3) The medicaid agency ~~((pays for home health aide services, as defined in WAC 182-551-2010, in any setting where normal life activities take place))~~ may authorize additional services on a case-by-case basis under WAC 182-501-0169.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2122 Medical supplies, equipment, and appliances.**

The ~~((medical agency's home health program))~~ medicaid agency covers medical supplies, equipment, and appliances, as defined and described in chapter 182-543 WAC ~~((, that are suitable for use in any setting in which normal life activities take place)).~~

AMENDATORY SECTION (Amending WSR 23-04-048, filed 1/26/23, effective 2/26/23)

**WAC 182-551-2125 Home health services delivered using telemedicine.** (1) The medicaid agency (~~(eovers)~~) pays for the delivery of one home health service((s)) through telemedicine ((for clients who have been)), per eligible client, per day, under WAC 182-501-0300 and the requirements in this section.

(2) For clients to be eligible to receive home health services through telemedicine, the medicaid agency requires the client to:

(a) Be diagnosed with an unstable condition ((who may)) causing the client to be at risk for hospitalization or a more costly level of care (. The client must); and

(b) Have a diagnosis or diagnoses where there is a high risk of sudden change in clinical status which could compromise health outcomes.

~~((2) The medicaid agency pays for one telemedicine interaction, per eligible client, per day, based on the ordering physician's home health plan of care.))~~

(3) To receive payment for the delivery of home health services through telemedicine, the services must involve:

(a) An assessment, problem identification, and evaluation which includes:

(i) Assessment and monitoring of clinical data including, but not limited to, vital signs, pain levels and other biometric measures specified in the plan of care. Also includes assessment of response to previous changes in the plan of care; and

(ii) Detection of condition changes based on the telemedicine encounter that may indicate the need for a change in the plan of care; and

(b) Implementation of a management plan through one or more of the following:

(i) Teaching regarding medication management, as appropriate;

(ii) Teaching regarding other interventions as appropriate to both the patient and the caregiver;

(iii) Management and evaluation of the plan of care including changes in visit frequency or addition of other skilled services;

(iv) Coordination of care with the ordering physician regarding findings;

(v) Coordination and referral to other medical providers as needed; and

(vi) Referral to the emergency room as needed.

(4) The medicaid agency does not require prior authorization for the delivery of home health services through telemedicine.

(5) The medicaid agency does not pay for the purchase, rental, or repair of telemedicine equipment.

(6) Electronic visit verification requirements are not applicable to home health services delivered through telemedicine. Other program rules may apply similar or the same record requirements to providers of home health services.



AMENDATORY SECTION (Amending WSR 22-05-048, filed 2/9/22, effective 3/12/22)

**WAC 182-551-2130 Noncovered services.** (1) The medicaid agency does not cover the following home health services under the home health program (~~(, unless otherwise specified)~~):

(a) Chronic long-term care skilled nursing visits or specialized therapy visits for a medically stable client when a long-term care skilled nursing plan or specialized therapy plan is in place through the department of social and health services' aging and long-term support administration (AL TSA).

(i) Prior to AL TSA implementing a long-term care skilled nursing plan or specialized therapy plan, the medicaid agency may consider (~~requests for interim chronic long-term care skilled nursing services or specialized therapy services for a client while the client is waiting for AL TSA to implement a long-term care skilled nursing plan or specialized therapy plan~~) a short-term authorization of these services as an exception to rule (ETR); and

(ii) (~~On a case-by-case basis, the medicaid agency may authorize long-term care skilled nursing visits or specialized therapy visits for a client for a limited time until a long-term care skilled nursing plan or specialized therapy plan is in place.~~) Any services authorized are subject to the provisions in this section and other applicable (~~published~~) WAC.

(b) Social work services that are not "medical social services" as defined in WAC 182-551-2010 or listed as covered in WAC 182-551-2115.

(c) Psychiatric skilled nursing services.

(d) (~~Pre- and postnatal~~) Prenatal and postpartum skilled nursing services, except as listed under WAC 182-551-2100 (~~(2)(e)~~).

(e) Well-baby follow-up care.

(f) Services performed in hospitals, correctional facilities, skilled nursing facilities, or a residential facility with skilled nursing services available.

(g) Health care for a medically stable client (~~(e.g., one who does not have an acute episode, a disease exacerbation, or treatment change)~~).

(h) Home health specialized therapies and home health aide visits for AEM clients (~~that are covered under the AEM categorically needy and medically needy programs and are~~) in the following programs:

(i) Categorically needy - Emergency medical only; and

(ii) Medically needy - Emergency medical only.

(~~(i) Skilled nursing visits for a client when a home health agency cannot safely meet the medical needs of that client within home health services program limitations (e.g., for a client to receive infusion therapy services, the caregiver must be willing and capable of managing the client's care).~~

(~~j) More than one of the same type of specialized therapy and home health aide visit per day.~~

(~~k) The medicaid agency does not pay for duplicate services for any specialized therapy for the same client when both providers are performing the same or similar procedure or procedures.~~

(~~l) Home health visits made without a written physician's order, unless the verbal order is:~~

(~~i) Documented before the visit; and~~

(~~ii) The document is signed by the ordering physician within 45 days of the order being given.~~

~~(2) The medicaid agency does not cover additional administrative costs billed above the visit rate (these costs are included in the visit rate and will not be paid separately).~~

~~(3))~~ (2) The medicaid agency evaluates a request for ((any)) home health services that ((is)) are listed as noncovered ((under WAC 182-501-0160)):

(a) For a person age 21 and older, under WAC 182-501-0160;

(b) For a person age 20 and younger, under the early and periodic screening diagnosis and treatment (EPSDT) provisions in chapter 182-534 WAC; and

(c) For a person age 19 or older that is under emergency related services only, under WAC 182-507-0120.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2200 Eligible providers.** The following may contract with the medicaid agency to provide home health services through the home health program, subject to the ~~((restrictions or))~~ requirements and limitations in this section and other applicable published WAC:

(1) A home health agency that:

(a) Is Title XVIII (medicare)-certified, or if the services being provided are not covered by medicare, the provider may attest to the medicaid agency it meets the requirements for participation in medi-care;

(b) Is licensed by the department of health (DOH) ((licensed)) as a home health agency;

(c) Submits a completed, signed core provider agreement to the medicaid agency and is enrolled; and

(d) ((Is assigned a provider number)) Has a home health taxonomy on their provider file in the medicaid agency's claim payment system.

(2) A registered nurse (RN) who:

(a) Is prior authorized by the medicaid agency to provide intermittent nursing services when no home health agency exists in the area where the client's normal life activities take place;

(b) Cannot contract with a medicare-certified home health agency;

(c) Submits a completed, signed core provider agreement to the medicaid agency and is enrolled; and

(d) ((Is assigned a provider number)) Has an RN home health taxonomy on their provider file in the medicaid agency's claim payment system.

AMENDATORY SECTION (Amending WSR 23-04-048, filed 1/26/23, effective 2/26/23)

**WAC 182-551-2210 Provider requirements.** (1) For any ((delivered)) home health services to be payable, the medicaid agency requires home health providers to develop and implement an individualized plan of care (POC) for the client((-

~~(1) The POC)) that must:~~

(a) Be documented in writing and be located in the client's home health medical record;

- (b) Be developed, supervised, and signed by a licensed registered nurse or licensed therapist;
  - (c) Reflect the authorized practitioner's orders and client's current health status;
  - (d) Contain specific goals and treatment plans;
  - (e) Be reviewed and revised by an authorized practitioner at least every 60 calendar days ~~((7))~~;
  - ~~(f) Be signed by the authorized practitioner within 45 days ((of the)) if a verbal order ((, and returned to the home health agency's file)) is given;~~ and
  - ~~((f))~~ (g) Be available to medicaid agency staff or its designated contractor(s) on request.
- (2) The provider must include all the following in the POC:
- (a) The client's name, date of birth, and address ~~((+))~~ to include name of residential care facility, if applicable ~~((+))~~;
  - (b) The primary diagnosis (the diagnosis that is most related to the reason the client qualifies for home health services) or the diagnosis that is the reason for the visit frequency;
  - (c) All secondary medical diagnoses, including date or dates of onset or exacerbation;
  - (d) The prognosis;
  - (e) The type or types of equipment required;
  - (f) A description of each planned service and goals related to the services provided;
  - (g) Specific procedures and modalities;
  - (h) A description of the client's mental status;
  - (i) A description of the client's rehabilitation potential;
  - (j) A list of permitted activities;
  - (k) A list of safety measures taken on behalf of the client; and
  - (l) A list of medications which indicates:
    - (i) Any new prescription; and
    - (ii) Which medications are changed for dosage or route of administration.
- (3) The provider must include in or attach to the POC:
- (a) A description of the client's functional limits and the effects;
  - (b) Documentation that justifies why the medical services should be provided in any setting where the client's life activities take place instead of an authorized practitioner's office, clinic, or other outpatient setting;
  - (c) Significant clinical findings;
  - (d) Dates of recent hospitalization;
  - (e) Notification to the department of social and health services (DSHS) case manager of admittance;
  - (f) A discharge plan, including notification to the DSHS case manager of the planned discharge date and client disposition at time of discharge; and
  - (g) Order for the delivery of home health services through telemedicine ~~((or telemonitoring))~~, as appropriate.
- (4) The individual client medical record must comply with community standards of practice, and must include documentation of:
- (a) Visit notes for every billed visit;
  - (b) Supervisory visits for home health aide services as described in WAC 182-551-2120 ~~((3))~~;
  - (c) All medications administered and treatments provided;
  - (d) All authorized practitioner's orders, new orders, and change orders, with notation that the order was received before treatment;

- (e) Signed authorized practitioner's new orders and change orders;
- (f) Home health aide services as indicated by a registered nurse or licensed therapist in a home health aide care plan;
- (g) Interdisciplinary and multidisciplinary team communications;
- (h) Inter-agency and intra-agency referrals;
- (i) Medical tests and results;
- (j) Pertinent medical history; and
- (k) Notations and charting with signature and title of writer.
- (5) The provider must document at least the following in the client's medical record:
- (a) Skilled interventions per the POC;
- (b) Client response to the POC;
- (c) Any clinical change in client status;
- (d) Follow-up interventions specific to a change in status with significant clinical findings;
- (e) Any communications with the attending authorized practitioner; and
- (f) Telemedicine findings, as appropriate.
- (6) The provider must include the following documentation in the client's visit notes when appropriate:
- (a) Any teaching, assessment, management, evaluation, client compliance, and client response; and
- (b) ~~((Weekly documentation of wound care, size (dimensions), drainage, color, odor, and identification of potential complications and interventions provided;~~
- ~~(c) If a client's wound is not healing, the client's authorized practitioner has been notified, the client's wound management program has been appropriately altered and, if possible, the client has been referred to a wound care specialist; and~~
- ~~(d))~~ The client's physical system assessment as identified in the POC.
- (7) For any in-home delivered home health services to be payable, the medicaid agency requires home health providers to meet the electronic visit verification requirements.

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2220 Provider payments.** (1) To be reimbursed, the home health provider must bill the medicaid agency according to ~~((the conditions of payment under WAC 182-502-0150 and other issuances))~~ medicaid program rules, including chapter 182-502 WAC and agency published billing instructions.

- (2) Payment to home health providers is:
- (a) A set rate per visit for each discipline provided to a client;
- (b) Based on the county location of the providing home health agency; and
- (c) Updated by general vendor rate changes.
- (3) For clients eligible for both medicaid and medicare, the medicaid agency may pay for services described in this chapter only when medicare does not cover those services or pays less than the medicaid maximum payment. The maximum payment for each service is medicaid's maximum payment.

(4) The medicaid agency does not pay for services provided to clients at a hospital, adult day care, skilled nursing facility, or intermediate care facility for individuals with intellectual disabilities, or any setting in which payment is made under medicaid for inpatient services that include room and board.

(a) Residential facilities contracted with the state to provide services are not reimbursed separately for those same services under the medicaid agency's home health program.

(b) It is the responsibility of the home health agency to request coverage for a client when the services are not available to the client in the community or through long-term care.

(5) Providers must submit documentation to the medicaid agency during the home health agency's review period. Documentation includes, but is not limited to, the requirements listed in WAC 182-551-2210.

~~((5))~~ (6) After the medicaid agency receives the documentation, the medicaid ((agency's medical director)) agency or the agency's designee reviews the client's medical records for program compliance and quality of care.

~~((6))~~ (7) The medicaid agency may take back or deny payment for any insufficiently documented home health care service when the medicaid ((agency's medical director)) agency or the agency's designee determines that:

(a) The service did not meet the conditions described in WAC 182-550-2030; or

(b) The service was not in compliance with program policy.

~~((7))~~ (8) For any in-home home health services to be payable, the medicaid agency requires claims to meet the electronic visit verification requirements. The claims must electronically verify the following data points:

(a) Type of service performed;

(b) Individual receiving the service;

(c) Date of the service;

(d) Location of service delivery;

(e) Individual providing the service; and

(f) Time services begin and the time services end.

(9) Covered home health services for clients enrolled in an agency-contracted managed care organization (MCO) are paid for by that MCO.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-551-2140      Exceptions.

## WSR 23-24-032

## PERMANENT RULES

## DEPARTMENT OF HEALTH

[Filed November 29, 2023, 2:48 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: Health equity continuing education (CE) for sex offender treatment providers (SOTP).

The department of health (department) is adopting amendments to WAC 246-930-410 Continuing education requirements to establish health equity CE requirements and implement ESSB 5229 (chapter 276, Laws of 2021). The adopted rule does not change the total CE hours required for SOTPs. It requires two hours in health equity CE every four years, which is absorbed into the existing number of CE hours required. Additionally, because an individual must hold an SOTP credential in addition to a credential for their primary health profession, the adopted rule does not require an SOTP to take an additional health equity CE training if they have already completed the training for their primary credential.

RCW 43.70.613 (3) (b) directed the rule-making authority for each health profession licensed under Title 18 RCW that is subject to continuing competency to adopt rules requiring a licensee to complete health equity continuing competency training at least once every four years. The statute also directed the department to create model rules establishing the minimum standards for health equity CE programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167.

Citation of Rules Affected by this Order: Amending WAC 246-930-410.

Statutory Authority for Adoption: RCW 18.155.040; and ESSB 5229 (chapter 276, Laws of 2021) codified as RCW 43.70.613.

Other Authority: ESSB 5229 (chapter 276, Laws of 2021) codified as RCW 43.70.613.

Adopted under notice filed as WSR 23-17-084 on August 15, 2023.

Changes Other than Editing from Proposed to Adopted Version: On its own initiative, the department has made minor edits to update formatting and increase clarity, including: (1) Discontinuing the use of "and/or"; (2) removing bold formatting from rule text; (3) dividing subsection (4) into paragraphs for clarity; and (4) relocating a paragraph for greater visibility.

A final cost-benefit analysis is available by contacting Lana Crawford, P.O. Box 47852, Olympia, WA 98504-7852, phone 564-669-1455, TTY 711, email Lana.Crawford@doh.wa.gov, website www.doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 29, 2023.

Kristin Peterson, JD  
Chief of Policy  
for Umair A. Shah, MD, MPH  
Secretary

**OTS-4773.2**

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-930-410 Continuing education requirements.** Certified sex offender treatment providers must complete (~~forty~~) 40 hours of continuing education every two years as required in chapter 246-12 WAC (~~(, Part 7)~~).

(1) Purpose and scope. The aim of continuing education for sex offender treatment providers is to ensure that professionals practicing in this specialty field are knowledgeable of current scientific and practice principles that affect the supervision and treatment of sex offenders in community-based treatment. Since the treatment of sex offenders in communities raises significant public safety concerns, continuing education is required to help sex offender treatment providers deliver the highest quality of professional service by being familiar with current developments in a rapidly changing profession. Certified sex offender treatment providers, regardless of certification status (e.g., full, affiliate, or provisional), shall meet the continuing education requirements set forth in this section as a prerequisite to license renewal.

(2) Specific requirements.

(a) A minimum of (~~thirty~~) 30 hours of the CE shall be earned through attendance at courses, workshops, institutes, (~~and/~~) or formal conference presentations with direct, specific relevance to the assessment and treatment of sex offenders.

(i) Consultative or supervisory training obtained from other certified sex offender treatment providers is not creditable under this CE definition.

(ii) Independent study of audio or video tapes of seminar presentations not actually attended are creditable under this definition, up to a maximum of (~~ten~~) 10 hours in any two-year period. Credit for independent study will only be granted if accompanied by documentation of the learning activity, such as a written summary of the independent study activity.

(iii) CE credit for assessment and treatment of sex offender training courses presented to other professionals may be claimed by the certified provider who provides the training one time only (usually the first time it is taught, unless there is substantial revision), up to a maximum of (~~ten~~) 10 hours in any two-year period.

(iv) Courses specifically oriented toward assessment or treatment of sex offenders may be claimed as CE. The following are examples of subjects that qualify under this definition:

- (A) Ethics and professional standards;
- (B) Relapse prevention with sex offenders;
- (C) Plethysmographic assessment;

- (D) Sexual arousal assessment and reconditioning;
- (E) Risk assessment with sex offenders;
- (F) Psychopharmacological therapy with sex offenders;
- (G) Family therapy with sex offenders;
- (H) Research concerning sexual deviancy;
- (I) Sexual addiction; and
- (J) Therapy/clinical methods specific to sex offenders.

(b) In addition to the (~~thirty~~) 30 hours of CE with direct, specific relevance to the assessment and treatment of sex offenders, (~~ten~~) 10 hours of the total requirement may be earned through participation in training courses with indirect relevance to the assessment and treatment of sex offenders. The following subjects qualify under this definition:

- (i) Victimology/victim therapy;
- (ii) General counseling methods;
- (iii) Psychological test interpretation;
- (iv) Addiction/substance abuse;
- (v) Family therapy;
- (vi) Group therapy; (~~and~~)
- (vii) Legal issues; and
- (viii) Health equity training under (c) of this subsection.

(c) Beginning January 1, 2024, individuals certified under this chapter are required to complete at least two hours of health equity training every four-year renewal cycle. The training must meet the minimum standards under RCW 43.70.613 and comply with course requirements in WAC 246-12-800 through 246-12-830. Sex offender treatment providers who complete health equity training for their underlying credential are not required to take a separate training for their sex offender treatment provider credential during the same four-year period.

(3) Program or course approval. The department shall accept any CE that reasonably falls within the above categories and requirements. The department relies upon each individual provider's integrity with the intent and spirit of the CE requirements.

(4) CE requirement for newly certified providers. The prorated CE requirements in this subsection apply only to the first renewal following certification. If proof of CE is not required at the first renewal (dependent on birthdate), the prorated amount shall be added to the full 20 hour annual requirement for the second year following certification.

(a) Providers who are newly certified within six months of their renewal date shall not be required to submit proof of continuing education for the preceding (~~twelve~~) 12-month period.

(b) Providers who are newly certified from six to nine months prior to the renewal date shall be required to submit proof of (~~ten~~) 10 hours of the annual CE requirement for the preceding (~~twelve~~) 12-month period.

(c) Providers who are newly certified from nine to (~~twelve~~) 12 months prior to the renewal date shall be required to submit proof of the full (~~twenty~~) 20 hour annual CE requirement at the renewal date. (~~The above noted prorated CE requirements apply only to the first renewal following certification. If proof of CE is not required at the first renewal (dependent on birthdate), the prorated amount shall be added to the full twenty hour annual requirement for the second year following certification.~~)



## WSR 23-24-033

## PERMANENT RULES

## DEPARTMENT OF HEALTH

(Washington Medical Commission)

[Filed November 29, 2023, 4:30 p.m.]

Effective Date of Rule: January 1, 2024.

Purpose: Health equity continuing education (CE) training for physician assistants and allopathic physicians. The Washington medical commission (commission) is adopting new WAC 246-918-195 and 246-919-445 to implement ESSB 5229 (chapter 276, Laws of 2021). The commission has adopted the health equity model rules, WAC 246-12-800 through 246-12-830, for physician assistants and allopathic physicians to comply with RCW 43.70.613.

RCW 43.70.613 (3) (b) directs the rule-making authority for each health profession licensed under Title 18 RCW that is subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directed the department of health (department) to create model rules establishing the minimum standards for health equity CE programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. Any rules developed by the commission must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The adopted rule adds two hours of health equity education, as required in the model rules, to be completed as part of the current continuing competency requirements every four years. The adopted rule does not change the total CE hours but requires two hours in health equity CE every four years which is absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Citation of Rules Affected by this Order: New WAC 246-918-195 and 246-919-445.

Statutory Authority for Adoption: RCW 18.71.017, 18.130.050, and 43.70.613.

Other Authority: RCW 43.70.613.

Adopted under notice filed as WSR 23-18-007 on August 23, 2023.

A final cost-benefit analysis is available by contacting Amelia Boyd, P.O. Box 47866, Olympia, WA 98504-7866, phone 360-918-6336, TTY 711, email [medical.rules@wmc.wa.gov](mailto:medical.rules@wmc.wa.gov), website [wmc.wa.gov](http://wmc.wa.gov).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: October 20, 2023.

Kyle Karinen  
Executive Director

**OTS-4644.1**NEW SECTION

**WAC 246-918-195 Health equity continuing education training requirements.** (1) A physician assistant must complete two hours of health equity continuing education training every four years as described in WAC 246-12-800 through 246-12-830.

(2) The two hours of health equity continuing education a physician assistant completes count toward meeting applicable continuing education requirements in the same category specified in WAC 246-918-180.

**OTS-4643.1**NEW SECTION

**WAC 246-919-445 Health equity continuing education training requirements.** (1) A physician must complete two hours of health equity continuing education training every four years as described in WAC 246-12-800 through 246-12-830.

(2) The two hours of health equity continuing education a physician completes count toward meeting applicable continuing education requirements in the same category specified in WAC 246-919-460.

**WSR 23-24-034**  
**PERMANENT RULES**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter R 2023-07—Filed November 30, 2023, 7:20 a.m.]

Effective Date of Rule: January 1, 2024.

Purpose: The insurance commissioner is adopting consolidated health care rules due to the recent passage of insurance related legislation. Currently, multiple provisions of health care and insurance regulations in WAC need updated by the office of the insurance commissioner (OIC) to be consistent with enacted legislation codified in RCW. These rules will facilitate implementation of the legislation by ensuring that all affected health care and insurance entities understand their rights and obligations under the new legal framework.

Citation of Rules Affected by this Order: New WAC 284-43-5937 and 284-46-110; and amending WAC 284-43-0160, 284-43-7220, 284-44-046, 284-50-270, 284-170-130, and 284-180-460.

Statutory Authority for Adoption: RCW 48.02.060 (to effectuate chapter 314, Laws of 2011; chapter 8, Laws of 2023; chapter 107, Laws of 2023; chapter 194, Laws of 2023; chapter 245, Laws of 2023; chapter 366, Laws of 2023; and chapter 382, Laws of 2023), as well as RCW 48.43.735, 48.44.050, 48.46.200, 48.200.040, and 48.200.900.

Adopted under notice filed as WSR 23-21-102 on October 18, 2023.

Changes Other than Editing from Proposed to Adopted Version: WAC 284-43-5937(1) has been revised to remove the reference to and requirement of hearing instrument coverage regardless of network status. WAC 284-43-5937(4) has been updated to clarify that health carriers shall provide in network coverage for hearing instruments.

As enacted, there is nothing in RCW 48.43.135 that requires carriers to provide coverage of hearing instruments from nonparticipating providers. Given the rule making's purpose to clarify and interpret within the scope of agency authority, it is reasonable for OIC to determine that out-of-network coverage is not required. Further, some carriers may offer plans that do not include an out-of-network benefit; by limiting mandated coverage to participating providers only, this allows carriers to provide a baseline level of coverage for hearing instruments at a predictable cost. Finally, if the law is interpreted to mandate out-of-network coverage, then the proposed rule language may have inadvertently placed consumers in the middle of billing disputes or increased premiums to account for the carrier's cost of paying nonnegotiated rates to providers.

A final cost-benefit analysis is available by contacting Simon Casson, P.O. Box 40260, Olympia, WA 98504, phone 360-725-7038, fax 360-586-3109, email [Simon.Casson@oic.wa.gov](mailto:Simon.Casson@oic.wa.gov), website <https://www.insurance.wa.gov/consolidated-health-care-rulemaking-r-2023-07>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 6, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2023.

Mike Kreidler  
Insurance Commissioner

## OTS-4934.2

AMENDATORY SECTION (Amending WSR 20-24-040, filed 11/23/20, effective 12/24/20)

**WAC 284-43-0160 Definitions.** Except as defined in other sub-chapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Adverse determination" has the same meaning as the definition of adverse benefit determination in RCW 48.43.005, and includes:

(a) The determination includes any decision by a health carrier's designee utilization review organization that a request for a benefit under the health carrier's health benefit plan does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness or is determined to be experimental or investigational and the requested benefit is therefore denied, reduced, or terminated or payment is not provided or made, in whole or in part for the benefit;

(b) The denial, reduction, termination, or failure to provide or make payment, in whole or in part, for a benefit based on a determination by a health carrier or its designee utilization review organization of a covered person's eligibility to participate in the health carrier's health benefit plan;

(c) Any prospective review or retrospective review determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit;

(d) A rescission of coverage determination; or

(e) A carrier's denial of an application for coverage.

(2) "Authorization" or "certification" means a determination by the carrier that an admission, extension of stay, or other health care service has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness in relation to the applicable health plan.

(3) "Behavioral health agency" means an agency licensed or certified under RCW 71.24.037.

(4) "Clinical review criteria" means the written screens or screening procedures, decision rules, medical protocols, or clinical practice guidelines used by the carrier as an element in the evaluation of medical necessity and appropriateness of requested admissions, procedures, and services, including prescription drug benefits, under the auspices of the applicable plan. Clinical approval criteria has the same meaning as clinical review criteria.

(5) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

(6) "Covered person" or "enrollee" means an individual covered by a health plan including a subscriber, policyholder, or beneficiary of a group plan.

(7) "Emergency fill" means a limited dispensed amount of medication that allows time for the processing of a preauthorization request. Emergency fill only applies to those circumstances where a patient presents at a contracted pharmacy with an immediate therapeutic need for a prescribed medication that requires a prior authorization.

(8) "Emergency medical condition" (~~means the emergent and acute onset of a symptom or symptoms, including severe pain or emotional distress, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical, mental health or substance use disorder treatment attention, if failure to provide medical, mental health or substance use disorder treatment attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy~~) has the meaning set forth in RCW 48.43.005.

(9) "Emergency services" has the meaning set forth in RCW 48.43.005.

(10) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(11) "Expedited prior authorization request" (~~means any request by a provider or facility for approval of a service where the passage of time could seriously jeopardize the life or health of the enrollee, seriously jeopardize the enrollee's ability to regain maximum function, or, in the opinion of a provider or facility with knowledge of the enrollee's medical condition, would subject the enrollee to severe pain that cannot be adequately managed without the service that is the subject of the request~~) has the meaning set forth in RCW 48.43.830.

(12) "Facility" means an institution providing health care services including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings, and as defined in RCW 48.43.005.

(13) "Formulary" means a listing of drugs used within a health plan. A formulary must include drugs covered under an enrollee's medical benefit.

(14) "Grievance" has the meaning set forth in RCW 48.43.005.

(15) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(16) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(17) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care

service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the Patient Protection and Affordable Care Act (P.L. 111-148, as amended (2010)).

(18) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(19) "Immediate therapeutic needs" means those needs where passage of time without treatment would result in imminent emergency care, hospital admission or might seriously jeopardize the life or health of the patient or others in contact with the patient.

(20) "Indian health care provider" means:

(a) The Indian Health Service, an agency operated by the U.S. Department of Health and Human Services established by the Indian Health Care Improvement Act, Section 601, 25 U.S.C. §1661;

(b) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. §1603(14), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. §450 et seq.;

(c) A tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. §1603(26), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the ISDEAA, 25 U.S.C. §450 et seq.;

(d) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. §1603(14), or tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. §1603(26), that operates a health program with funding provided in whole or part pursuant to 25 U.S.C. §47 (commonly known as the Buy Indian Act); or

(e) An urban Indian organization that operates a health program with funds in whole or part provided by Indian Health Service under a grant or contract awarded pursuant to Title V of the Indian Health Care Improvement Act, Section 4(29), 25 U.S.C. §1603(29).

(21) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

(22) "Medically necessary" or "medical necessity" in regard to mental health services and pharmacy services is a carrier determination as to whether a health service is a covered benefit because the service is consistent with generally recognized standards within a relevant health profession.

(23) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

(24) "Mental health services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization, residential treatment, out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize or ameliorate the effects of a mental disorder listed in the most current version of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)* published by the American Psychiatric Association, including diagnoses and treatment for substance use disorder.

(25) "Network" means the group of participating providers and facilities providing health care services to a particular health plan or line of business (individual, small, or large group). A health plan network for issuers offering more than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

(26) "Participating provider" and "participating facility" means a facility or provider who, under a contract with the health carrier or with the carrier's contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

(27) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

(28) "Pharmacy services" means the practice of pharmacy as defined in chapter 18.64 RCW and includes any drugs or devices as defined in chapter 18.64 RCW.

(29) "Predetermination request" means a voluntary request from an enrollee or provider or facility for a carrier or its designated or contracted representative to determine if a service is a benefit, in relation to the applicable plan.

(30) "Preservice requirement" means any requirement that a carrier places on a provider or facility that may limit their ability to deliver a service that requires prior authorization. Examples include limits on the type of provider or facility delivering the service, a service that must be provided before a specific service will be authorized, site of care/place of service, and whether a provider administered medication needs to be obtained from a specialty pharmacy.

(31) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

(32) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(33) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(34) "Prior authorization" means a mandatory process that a carrier or its designated or contracted representative requires a provider or facility to follow to determine if a service is a benefit and meets the requirements for medical necessity, clinical appropriateness, level of care, or effectiveness in relation to the applicable plan. Prior authorization occurs before the service is delivered. For purposes of WAC 284-43-2050 and 284-43-2060, any term used by a carrier or its designated or contracted representative to describe this process is prior authorization. For example, prior authorization has also been referred to as "prospective review," "preauthorization," or "precertification."

(35) "Service area" means the geographic area or areas where a specific product is issued, accepts members or enrollees, and covers provided services. A service area must be defined by the county or counties included unless, for good cause, the commissioner permits limitation of a service area by zip code. Good cause includes geographic barriers within a service area, or other conditions that make offering coverage throughout an entire county unreasonable.

(36) "Small group plan" means a health plan issued to a small employer as defined under RCW 48.43.005(33) comprising from one to ~~((fifty))~~ 50 eligible employees.

(37) "Standard prior authorization request" ~~((means a request by a provider or facility for approval of a service where the request is made in advance of the enrollee obtaining a service that is not required to be expedited))~~ has the meaning set forth in RCW 48.43.830.

(38) "Step therapy protocol" means a drug utilization management prior authorization protocol or program that establishes the specific sequence in which prescription drugs are covered by a health carrier for a medical condition.

(39) "Substance use disorder" means a substance-related or addictive disorder listed in the most current version of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)* published by the American Psychiatric Association.

(40) "Substitute drug" means a prescription medication, drug or therapy that a carrier covers based on an exception request. When the exception request is based on therapeutic equivalence, a substitute drug means a therapeutically equivalent substance as defined in chapter 69.41 RCW.

(41) "Supplementary pharmacy services" or "other pharmacy services" means pharmacy services involving the provision of drug therapy management and other services not required under state and federal law but that may be rendered in connection with dispensing, or that may be used in disease prevention or disease management.

(42) "Withdrawal management services" means ~~((twenty-four))~~ 24 hour medically managed or medically monitored detoxification and assessment and treatment referral for adults or adolescents withdrawing



from alcohol or drugs, which may include induction of medications for addiction recovery.

AMENDATORY SECTION (Amending WSR 21-24-032, filed 11/22/21, effective 12/23/21)

**WAC 284-43-7220 Coverage required.** A health plan must provide coverage for all services and supplies required under RCW 48.43.072 and 48.43.073. A student health plan must also provide coverage for all services and supplies required under RCW 48.43.072 and 48.43.073.

(1) Required coverage of contraceptive services and supplies includes, but is not limited to:

(a) All prescription and over-the-counter contraceptive drugs, devices, and other products approved by the Federal Food and Drug Administration;

(b) Voluntary sterilization procedures; and

(c) The consultations, examinations, procedures, and medical services that are necessary to prescribe, dispense, insert, deliver, distribute, administer, or remove the drugs, devices, and other products or services in (a) and (b) of this subsection.

(2) (a) A health plan or student health plan that provides coverage for maternity care or services must also provide a covered person with substantially equivalent coverage to permit the abortion of a pregnancy. For the coverage to be substantially equivalent, a health plan or student health plan must not apply ~~((cost-sharing or))~~ coverage limitations differently for abortion and related services than for maternity care and its related services unless the difference provides the enrollee with access to care and treatment commensurate with the enrollee's specific medical needs, without imposing a surcharge or other additional cost to the enrollee ~~((beyond normal cost-sharing requirements under the plan))~~.

(b) Except as provided in (c) of this subsection, for health plans issued or renewed on or after January 1, 2024, a health carrier may not impose cost-sharing for abortion of a pregnancy.

(c) For a health plan that provides coverage for abortion of a pregnancy, and is offered as a qualifying health plan for a health savings account, the health carrier shall establish the plan's cost-sharing for the coverage required by this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the enrollee's health savings account under internal revenue service laws and regulations.

(3) This subchapter does not diminish or affect any rights or responsibilities provided under RCW 48.43.065.

(4) For purposes of this section, "abortion of a pregnancy" includes medical treatment intended to induce termination of a pregnancy, except for the purpose of producing a live birth, and all medically necessary care associated with completing treatment including, but not limited to, office visits, counseling, diagnostic and laboratory testing, and prescription drugs.

(5) Coverage for abortion of a pregnancy may be subject to terms and conditions generally applicable to the health plan's or student health plan's coverage of maternity care or services.

## OTS-4935.5

NEW SECTION

**WAC 284-43-5937 Hearing instrument coverage.** (1) The purpose of this regulation is to effectuate the provisions of chapter 245, Laws of 2023, by requiring health carriers to include coverage for hearing instruments.

(2) This section applies to health carriers offering nongrandfathered group health plans, other than small group health plans, issued or renewed on or after January 1, 2024.

(3) The hearing instruments and coverage requirements referenced in this section have the same meaning as in RCW 48.43.135.

(4) Health carriers shall provide in network coverage for hearing instruments at no less than \$3,000 per ear with hearing loss every 36 months. Any enrollee cost-sharing applied to this coverage must ensure that the amount paid by the health plan will be no less than \$3,000 except to the extent required otherwise in RCW 48.43.135(4).

(5) Enrollees can purchase a hearing instrument beyond the cost limitations outlined in this section and coverage must still be provided at no less than \$3,000 per ear with hearing loss every 36 months.

(6) The 36-month time period referenced in this section and RCW 48.43.135(3), is specific to the enrollee's current health carrier.

## OTS-4936.2

AMENDATORY SECTION (Amending WSR 92-16-009, filed 7/23/92, effective 8/23/92)

**WAC 284-44-046 Mammograms—Coverage requirements and exceptions.**

(1) The purpose of this regulation is to effectuate the provisions of RCW 48.44.325 by establishing definitions for the exceptions to coverage for mammograms. This regulation shall apply to every group and individual health care service contract which is delivered or issued for delivery or renewed in this state on or after September 1, 1992, that provides for hospital or medical care.

(2) For the purposes of RCW 48.44.325 and this regulation, supplemental contracts covering specified disease shall be defined to mean and include only those contracts which provide benefits to a member only in the event that the member contracts the disease or diseases specifically named in the contract. Also for the purposes of RCW 48.44.325 and this regulation, supplemental contracts covering limited benefits shall be defined to mean and include only those contracts providing only one of the following benefits: Hospital indemnity, accident only coverage, dental care, vision care, mental health care, chemical dependency care, pharmaceutical care, and podiatric care.

(3) Coverage of mammograms may be subject to standard contract provisions, except the cost-sharing provisions prohibited by RCW 48.43.076, which may be applicable to other diagnostic X-ray benefits (~~(such as deductible or copayment provisions)~~).

(4) For purposes of this section:

(a) "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast, as defined in RCW 48.43.076. Diagnostic breast examinations are used to evaluate an abnormality either seen or suspected from a breast cancer screening examination, or detected by another means of examination.

(b) "Supplemental breast examination" has the meaning set forth in RCW 48.43.076.

(5) For purposes of RCW 48.44.325 and this regulation, a contract is "renewed" when it is continued beyond the earliest date, after September 1, 1992, upon which, at the health care service contractor's sole option:

(a) The contract's termination could have been effectuated, for other than nonpayment of premium; or

(b) The contract could have been amended to add the mammogram coverage, with, if justified, an appropriate rate increase for any increased cost in providing mammogram coverage under the contract.

The failure of the health care service contractor to take any such steps does not prevent the contract from being "renewed." The intent of this section is to bring the mammogram coverage under the maximum number of contracts possible at the earliest possible time, by permitting the health care service contractor to exclude such coverage from only those contracts as to which there exists a right of renewal on the part of the contract holder without any change in any provision of the contract.

### OTS-4937.3

#### NEW SECTION

**WAC 284-46-110 Mammography coverage.** (1) The purpose of this regulation is to effectuate the provisions of RCW 48.43.076, by requiring coverage and prohibiting cost-sharing for certain types of mammography services.

(2) Except as provided in subsection (3) of this section, for nongrandfathered health plans issued or renewed on or after January 1, 2024, that include coverage of supplemental and diagnostic breast examinations, health carriers may not impose cost-sharing for such examinations.

(3) For a health plan that provides coverage of supplemental and diagnostic breast examinations and is offered as a qualifying health plan for a health savings account, the health carrier shall establish the plan's cost-sharing for the coverage of the services described in this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions from their health savings account under Internal Revenue Service laws and regulations.

(4) For purposes of this section:

(a) "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast, as defined in RCW 48.43.076. Diagnostic breast examinations are used to evaluate an abnormality either seen or suspected from a breast cancer screening examination, or detected by another means of examination.

(b) "Supplemental breast examination" has the meaning set forth in RCW 48.43.076.

(5) Coverage of mammograms may be subject to standard contract provisions, other than the cost-sharing provisions prohibited by RCW 48.43.076, which may be applicable to other diagnostic X-ray benefits.

## OTS-4938.2

AMENDATORY SECTION (Amending WSR 92-19-061, filed 9/11/92, effective 10/12/92)

### **WAC 284-50-270 Mammograms—Coverage requirements and exceptions.**

(1) The purpose of this regulation is to effectuate the provisions of RCW 48.20.393 and 48.21.225, by establishing definitions for the exceptions to coverage for mammograms. This regulation shall apply to every group and individual disability insurance contract, which is delivered or issued for delivery or renewed in this state on or after September 1, 1992, that provides coverage for hospital or medical expenses.

(2) For the purposes of RCW 48.20.393 and 48.21.225 and this regulation, supplemental contracts covering specified disease shall be defined to mean and include only those contracts or policies which provide benefits to a policyholder only in the event that the policyholder contracts the disease or diseases specifically named in the policy. Also for the purposes of RCW 48.20.393 and 48.21.225 and this regulation, supplemental contracts covering limited benefits shall be defined to mean and include only those contracts providing only one of the following benefits: Hospital indemnity, accident only coverage, dental care, vision care, mental health care, chemical dependency care, pharmaceutical care, and podiatric care.

(3) Coverage of mammograms may be subject to standard policy provisions, other than the cost-sharing provisions prohibited by RCW 48.43.076, which may be applicable to other diagnostic X-ray benefits (~~(such as deductible or copayment provisions)~~).

(4) For purposes of RCW 48.20.393 and 48.21.225 and this regulation, a contract is "renewed" when it is continued beyond the earliest date, after September 1, 1992, upon which, at the insurer's sole option:

(a) The contract's termination could have been effectuated, for other than nonpayment of premium; or

(b) The contract could have been amended to add the mammogram coverage, with, if justified, an appropriate rate increase for any increased cost in providing mammogram coverage under the contract.

The failure of the insurer to take any such steps does not prevent the contract from being "renewed." The intent of this section is to bring the mammogram coverage under the maximum number of contracts possible at the earliest possible time, by permitting the insurer to exclude such coverage from only those contracts as to which there exists a right of renewal on the part of the insured without any change in any provision of the contract.

(5) For purposes of this section:

(a) "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast, as defined in RCW 48.43.076. Diagnostic breast examinations are used to evaluate an ab-

normality either seen or suspected from a breast cancer screening examination, or detected by another means of examination.

(b) "Supplemental breast examination" has the meaning set forth in RCW 48.43.076.

## OTS-4939.1

AMENDATORY SECTION (Amending WSR 22-22-104, filed 11/2/22, effective 12/3/22)

**WAC 284-170-130 Definitions.** Except as defined in other sub-chapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Adverse determination" has the same meaning as the definition of adverse benefit determination in RCW 48.43.005, and includes:

(a) The determination includes any decision by a health carrier's designee utilization review organization that a request for a benefit under the health carrier's health benefit plan does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness or is determined to be experimental or investigational and the requested benefit is therefore denied, reduced, or terminated or payment is not provided or made, in whole or in part for the benefit;

(b) The denial, reduction, termination, or failure to provide or make payment, in whole or in part, for a benefit based on a determination by a health carrier or its designee utilization review organization of a covered person's eligibility to participate in the health carrier's health benefit plan;

(c) Any prospective review or retrospective review determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit;

(d) A rescission of coverage determination; or

(e) A carrier's denial of an application for coverage.

(2) "Allowed amount" has the meaning set forth in RCW 48.43.005.

(3) (a) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(b) "Audio-only telemedicine" does not include:

(i) The use of facsimile, email, or text messages, unless the use of text-like messaging is necessary to ensure effective communication with individuals who have a hearing, speech, or other disability; or

(ii) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(4) "Authorization" or "certification" means a determination by the carrier that an admission, extension of stay, or other health care service has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness in relation to the applicable health plan.

(5) "Clinical review criteria" means the written screens, or screening procedures, decision rules, medical protocols, or clinical practice guidelines used by the carrier as an element in the evaluation of medical necessity and appropriateness of requested admissions, procedures, and services, including prescription drug benefits, under the auspices of the applicable health plan. Clinical approval criteria has the same meaning as clinical review criteria.

(6) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

(7) "Covered person" or "enrollee" means an individual covered by a health plan including a subscriber, policyholder, or beneficiary of a group plan.

(8) "Disciplining authority" has the meaning set forth in RCW 18.130.020.

(9) "Distant site" has the meaning set forth in RCW 48.43.735.

(10) "Emergency medical condition" (~~means the emergent and acute onset of a symptom or symptoms, including severe pain or emotional distress, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical, mental health, or substance use disorder treatment attention, if failure to provide medical, mental health, or substance use disorder treatment attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy~~) has the meaning set forth in RCW 48.43.005.

(11) "Emergency services" has the meaning set forth in RCW 48.43.005.

(12) "Enrollee point-of-service cost-sharing" or "cost-sharing" has the meaning set forth in RCW 48.43.005.

(13) "Established relationship" means the provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:

(a) For health care services included in the essential health benefits category of mental health and substance use disorder services, including behavioral health treatment:

(i) The covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with:

(A) The provider providing audio-only telemedicine;

(B) A provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(C) A locum tenens or other provider who is the designated back up or substitute provider for the provider providing audio-only telemedicine who is on leave and is not associated with an established medical group, clinic, or integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW; or

(ii) The covered person was referred to the provider providing audio-only telemedicine by another provider who has:

(A) Had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person; and

(B) Provided relevant medical information to the provider providing audio-only telemedicine.

(C) A referral includes circumstances in which the provider who has had at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person participates in the audio-only telemedicine encounter with the provider to whom the covered person has been referred.

(b) For any other health care service:

(i) The covered person has had, within the past two years, at least one in-person appointment, or, until ~~((January))~~ July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with:

(A) The provider providing audio-only telemedicine; or

(B) A provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(C) A locum tenens or other provider who is the designated back up or substitute provider for the provider providing audio-only telemedicine who is on leave and is not associated with an established medical group, clinic, or integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW; or

(ii) The covered person was referred to the provider providing audio-only telemedicine by another provider who has:

(A) Had, within the past two years, at least one in-person appointment or, until ~~((January))~~ July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person; and

(B) Provided relevant medical information to the provider providing audio-only telemedicine.

(C) A referral includes circumstances in which the provider who has had at least one in-person appointment, or, until ~~((January))~~ July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person participating in the audio-only telemedicine encounter with the provider to whom the covered person has been referred.

(14) "Expedited prior authorization request" has the meaning set forth in RCW 48.43.830.

(15) "Facility" means an institution providing health care services including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings, and as defined in RCW 48.43.005.

~~((15))~~ (16) "Formulary" means a listing of drugs used within a health plan.

~~((16))~~ (17) "Grievance" has the meaning set forth in RCW 48.43.005.

~~((17))~~ (18) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

~~((18))~~ (19) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

~~((19))~~ (20) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in The Patient Protection and Affordable Care Act (P.L. 111-148, as amended (2010)).

~~((20))~~ (21) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

- (a) Long-term care insurance governed by chapter 48.84 RCW;
- (b) Medicare supplemental health insurance governed by chapter 48.66 RCW;
- (c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;
- (d) Disability income;
- (e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;
- (f) Workers' compensation coverage;
- (g) Accident only coverage;
- (h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;
- (i) Employer-sponsored self-funded health plans;
- (j) Dental only and vision only coverage; and
- (k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

~~((21))~~ (22) "Hospital" has the meaning set forth in RCW 48.43.735.

~~((22))~~ (23) "Indian health care provider" means:

- (a) The Indian Health Service, an agency operated by the U.S. Department of Health and Human Services established by the Indian Health Care Improvement Act, Section 601, 25 U.S.C. Sec. 1661;
- (b) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. Sec. 450 et seq.;
- (c) A tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the ISDEAA, 25 U.S.C. Sec. 450 et seq.;
- (d) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), or tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program with funding provided in whole or part pursuant to 25 U.S.C. Sec. 47 (commonly known as the Buy Indian Act); or
- (e) An urban Indian organization that operates a health program with funds in whole or part provided by Indian Health Service under a



grant or contract awarded pursuant to Title V of the Indian Health Care Improvement Act, Section 4(29), 25 U.S.C. Sec. 1603(29).

~~((23))~~ (24) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

~~((24))~~ (25) "Medically necessary" or "medical necessity" in regard to mental health services and pharmacy services is a carrier determination as to whether a health service is a covered benefit because the service is consistent with generally recognized standards within a relevant health profession.

~~((25))~~ (26) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

~~((26))~~ (27) "Mental health services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization, residential treatment, out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize, or ameliorate the effects of a mental disorder listed in the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association, including diagnoses and treatment for substance use disorder.

~~((27))~~ (28) "Network" means the group of participating providers and facilities providing health care services to a particular health plan or line of business (individual, small, or large group). A health plan network for issuers offering more than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

~~((28))~~ (29) "Originating site" means the physical location of a patient receiving health care services through telemedicine, and includes those sites described in WAC 284-170-433.

~~((29))~~ (30) "Out-patient therapeutic visit" or "out-patient visit" means a clinical treatment session with a mental health provider of a duration consistent with relevant professional standards used by the carrier to determine medical necessity for the particular service being rendered, as defined in Physicians Current Procedural Terminology, published by the American Medical Association.

~~((30))~~ (31) "Participating provider" and "participating facility" mean a facility or provider who, under a contract with the health carrier or with the carrier's contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

~~((31))~~ (32) "Patient consent" means a voluntary and informed decision by a patient, following an explanation by the provider or auxiliary personnel under the general supervision of the provider presented in a manner understandable to the patient that is free of undue influence, fraud or duress, to consent to a provider billing the patient or the patient's health plan for an audio-only telemedicine service under RCW 48.43.735 or WAC 284-170-433.

~~((32))~~ (33) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

~~((33))~~ (34) "Pharmacy services" means the practice of pharmacy as defined in chapter 18.64 RCW and includes any drugs or devices as defined in chapter 18.64 RCW.

~~((34))~~ (35) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

~~((35))~~ (36) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

~~((36))~~ (37) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

~~((37))~~ (38) "Real time communication" means synchronous and live communication between a provider and a patient. It does not include delayed or recorded messages, such as email, facsimile or voice-mail.

~~((38))~~ (39) "Same amount of compensation" means providers are reimbursed by a carrier using the same allowed amount for telemedicine services as they would if the service had been provided in-person unless negotiation has been undertaken under RCW 48.43.735 or WAC 284-170-433(2). Where consumer cost-sharing applies to telemedicine services, the consumer's payment combined with the carrier's payment must be the same amount of compensation, or allowed amount, as the carrier would pay the provider if the telemedicine service had been provided in person. Where an alternative payment methodology other than fee-for-service payment would apply to an in-person service, "same amount of compensation" means providers are reimbursed by a carrier using the same alternative payment methodology that would be used for the same service if provided in-person, unless negotiation has been undertaken under RCW 48.43.735 or WAC 284-170-433(2).

~~((39))~~ (40) "Service area" means the geographic area or areas where a specific product is issued, accepts members or enrollees, and covers provided services. A service area must be defined by the county or counties included unless, for good cause, the commissioner permits limitation of a service area by zip code. Good cause includes geographic barriers within a service area, or other conditions that make offering coverage throughout an entire county unreasonable.

~~((40))~~ (41) "Small group plan" means a health plan issued to a small employer as defined under RCW 48.43.005(34) comprising from one to 50 eligible employees.

~~((41))~~ (42) "Standard prior authorization request" has the meaning set forth in RCW 48.43.830.

(43) "Store and forward technology" has the meaning set forth in RCW 48.43.735.

~~((42))~~ (44) "Substance use disorder services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization, residential treatment, or out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize, or ameliorate the effects of a substance use disorder listed in the most current version of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) published by the American Psychiatric Association, including diagnoses and treatment for substance use disorder.

~~((43))~~ (45) "Substitute drug" means a prescription medication, drug or therapy that a carrier covers based on an exception request. When the exception request is based on therapeutic equivalence, a substitute drug means a therapeutically equivalent substance as defined in chapter 69.41 RCW.

~~((44))~~ (46) "Supplementary pharmacy services" or "other pharmacy services" means pharmacy services involving the provision of drug therapy management and other services not required under state and federal law but that may be rendered in connection with dispensing, or that may be used in disease prevention or disease management.

~~((45))~~ (47) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology or audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this chapter, "telemedicine" does not include facsimile, email, or text messaging, unless the use of text-like messaging is necessary to ensure effective communication with individuals who have a hearing, speech, or other disability.

#### OTS-4940.1

AMENDATORY SECTION (Amending WSR 21-02-034, filed 12/29/20, effective 1/1/22)

**WAC 284-180-460 Health care benefit manager filings.** (1) A health care benefit manager must file all contracts and contract amendments between the health care benefit manager and a health carrier, provider, pharmacy, pharmacy services administration organization, or other health care benefit manager entered into directly or indirectly in support of a contract with a carrier or employee benefits program within ~~((thirty))~~ 30 days following the effective date of the contract or contract amendment. If a health care benefit manager negotiates, amends, or modifies a contract or a compensation agreement that deviates from a filed agreement, then the health care benefit manager must file that negotiated, amended, or modified contract or agreement with the commissioner within ~~((thirty))~~ 30 days following the effective date. The commissioner must receive the filings electronically in accordance with this chapter.

(2) Contracts or contract amendments that were executed prior to July 23, 2023, and remain in force, must be filed with the commissioner no later than 60 days following July 23, 2023.

(3) Health care benefit managers must maintain health care benefit management contracts at its principal place of business in the state, or the health care benefit manager must have access to all contracts and provide copies to facilitate regulatory review upon ~~((twenty))~~ 20 days prior written notice from the commissioner.

~~((3))~~ (4) Health care benefit manager contracts and compensation agreements must clearly set forth provider network names and applicable compensation agreements associated with those networks so that the provider or facility can understand their participation as an in-network provider and the reimbursement to be paid. The format of such contracts and agreements may include a list or other format ac-

ceptable to the commissioner so that a reasonable person will understand and be able to identify their participation and the reimbursement to be paid as a contracted provider in each provider network.

**WSR 23-24-036**  
**PERMANENT RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed November 30, 2023, 8:06 a.m., effective December 31, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is adopting amendments to the following WAC sections to remove the 60-month time limit for child-only temporary assistance for needy families (TANF) and state family assistance (SFA) households with an ineligible parent, per 2SHB 1447 (chapter 418, Laws of 2023): WAC 388-484-0005 There is a five-year (sixty-month) time limit for TANF, SFA, and GA-S cash assistance and 388-484-0006 TANF/SFA time limit extensions.

These amendments are currently in effect (since July 1, 2023) via emergency rules under WSR 23-22-007.

Citation of Rules Affected by this Order: Amending WAC 388-484-0005 and 388-484-0006.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.57 [74.04.057], 74.08.090, 74.08A.010, 74.08A.015.

Other Authority: 2SHB 1447 (chapter 418, Laws of 2023).

Adopted under notice filed as WSR 23-20-101 on October 3, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 30, 2023.

Katherine I. Vasquez  
Rules Coordinator

**SHS-4980.6**

AMENDATORY SECTION (Amending WSR 12-05-039, filed 2/10/12, effective 3/12/12)

**WAC 388-484-0005 There is a five-year ((~~sixty~~)) 60-month) time limit for TANF, SFA, and GA-S cash assistance. (1) What is the ((~~sixty~~)) 60-month time limit?**

(a) You can receive cash assistance for temporary assistance for needy families (TANF), state family assistance (SFA), and general assistance for pregnant women (GA-S) for a lifetime limit of ((~~sixty~~)) 60 months. The time limit applies to cash assistance provided by any

combination of these programs, and whether or not it was received in consecutive months.

(b) If you receive cash assistance for part of the month, it counts as a whole month against the time limit.

(c) If you have received cash assistance from another state on or after August 1, 1997, and it was paid for with federal TANF funds, those months will count against your time limit.

(d) The time limit does not apply to diversion cash assistance, support services, food assistance, or medicaid.

**(2) When did the ~~((sixty))~~ 60-month time limit go into effect?**

The ~~((sixty))~~ 60-month time limit applies to cash assistance received on or after August 1, 1997, for TANF and SFA. Although the GA-S program no longer exists, the time limit applies to GA-S cash assistance received from May 1, 1999, through July 31, 1999.

**(3) Does the time limit apply to me?**

~~((a))~~ The ~~((sixty))~~ 60-month time limit applies to you for any month in which you are ~~((an ineligible parent or a))~~ an aided parent or other relative as defined in WAC 388-454-0010, or ~~((a))~~ an aided minor parent emancipated through court order or marriage.

~~((b) An ineligible parent is a natural, adoptive or step parent as defined in WAC 388-454-0010 who receives a TANF/SFA grant for his or her child but is ineligible to receive TANF/SFA assistance.)~~

**(4) Do any exceptions to the time limits apply to me?**

The department does not count months of assistance towards the ~~((sixty))~~ 60-month time limit if you are:

(a) A relative other than a parent as defined in WAC 388-454-0010(3);

(b) An ineligible parent who is a natural, adoptive, or stepparent as defined in WAC 388-454-0010 who receives TANF/SFA grant for their child, but is ineligible to receive TANF/SFA assistance such as:

(i) A parent who is ineligible due to receiving supplemental security income (SSI) benefits,

(ii) A parent who is ineligible due to citizenship, or

(iii) A parent who is ineligible due to felony status;

~~((a))~~ (c) An adult caretaker, other than an ineligible parent, as described in WAC 388-454-0005 through 388-454-0010, who is not a member of the assistance unit and ~~((you are))~~ is receiving cash assistance on behalf of a child;

~~((b))~~ (d) An unemancipated pregnant or parenting minor living in a department approved living arrangement as defined by WAC 388-486-0005; or

~~((e))~~ (e) An adult ~~((and you are))~~ living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan native village, ~~((and you are))~~ receiving TANF, SFA, or GA-S cash assistance during a period when at least ~~((fifty percent))~~ 50% of the adults living in Indian country or in the village were not employed. See WAC 388-484-0010.

**(5) ~~((What happens if an ineligible parent in the home or a member of my assistance unit has received sixty months of TANF, SFA, and GA-S cash benefits?~~**

~~Once any adult or emancipated minor in the assistance unit has received sixty months of cash assistance, or an ineligible parent in the home has received sixty months of cash assistance for themselves or their child, the entire assistance unit becomes ineligible for TANF or SFA cash assistance, unless they qualify for a hardship extension and are eligible for an extended period of cash assistance called a TANF/SFA time limit extension under WAC 388-484-0006.~~

~~(6-))~~ **What can I do if I disagree with how the department has counted my months of cash assistance?**

(a) If you disagree with how we counted your months of cash assistance, you may ask for a hearing within ~~((ninety))~~ 90 days of the date we sent you a letter telling you how many months we are counting.

(b) You will get continued benefits (the amount you were getting before the change) if:

(i) You have used all ~~((sixty))~~ 60 months of benefits according to our records; and

(ii) You ask for a hearing within the ~~((ten))~~ 10-day notice period, as described in chapter 388-458 WAC.

(c) If you get continued benefits and the administrative law judge (ALJ) agrees with our decision, you may have to pay back the continued benefits after the hearing, as described in chapter 388-410 WAC.

~~((7-))~~ **(6) Does the department ever change the number of months that count against my time limit?**

We change the number of months we count in the following situations:

(a) You repay an overpayment for a month where you received benefits but were not eligible for any of the benefits you received. We subtract one month for each month that you completely repay. If you were eligible for some of the benefits you received, we still count that month against your time limit.

(b) We did not close your grant on time when the division of child support (DCS) collected money for you that was over your grant amount two months in a row, as described in WAC 388-422-0030.

(c) An ALJ decides at an administrative hearing that we should change the number of months we count.

(d) You start getting worker's compensation payments from the department of labor and industries (L&I) and your L&I benefits have been reduced by the payments we made to you.

(e) You participated in the excess real property (ERP) program in order to get assistance and we collected the funds when your property sold.

(f) Another state gave us incorrect information about the number of months you got cash assistance from them.

AMENDATORY SECTION (Amending WSR 23-01-020, filed 12/8/22, effective 1/8/23)

**WAC 388-484-0006 TANF/SFA time limit extensions. (1) What happens after I receive 60 or more months of TANF/SFA cash assistance?**

After you receive 60 or more months of TANF/SFA cash assistance according to WAC 388-484-0005, you may qualify for additional months of cash assistance. We call these additional months of TANF/SFA cash assistance a hardship TANF/SFA time limit extension.

**(2) Who is eligible for a hardship TANF/SFA time limit extension?**

You are eligible for a hardship TANF/SFA time limit extension if you are on TANF, are otherwise eligible for TANF, ~~((or are an ineligible parent, and you have))~~ received 60 cumulative months of TANF and you:

(a) ~~((You))~~ Are approved for one of the exemptions from mandatory participation according to WAC 388-310-0350 (1)(a) through (d) ~~((or you~~

~~are an ineligible parent who meets the criteria for an exemption from mandatory WorkFirst participation)); or~~

~~(b) You:~~

~~((i)) (b) Are a ((supplemental security income recipient or a)) Social Security disability insurance recipient; or~~

~~((ii)) (c) Are at least 65 years old, blind as defined by the Social Security Administration or disabled as determined under chapter 388-449 WAC; or~~

~~((iii)) (d) Have an open child welfare case with a state or tribal government and this is the first time you have had a child dependent under RCW 13.34.030 in this or another state or had a child a ward of a tribal court; or~~

~~((iv)) (e) Are working in unsubsidized employment for 32 hours or more per week; or~~

~~((v)) (f) Document that you meet the family violence option criteria in WAC 388-61-001 and are participating satisfactorily in specialized activities needed to address your family violence according to a service plan developed by a person trained in family violence or have a good reason, as described in WAC 388-310-1600(3) for failure to participate satisfactorily in specialized activities; or~~

~~((vi)) (g) Are homeless by reason of hardship, including when your family includes a child or youth who is without a fixed regular, and adequate nighttime residence as described in the federal McKinney-Vento Homeless Assistance Act (Title 42. U.S.C. 11434a(2), chapter 119, subchapter VI, part B) as it existed on January 1, 2020; or~~

~~((vii) Are) (h) Were an active TANF recipient from July 1, 2021, through June 30, 2023; or~~

~~((viii) Are) (i) Were an active TANF recipient, beginning July 1, 2022, when Washington state employment security department's most recently published unemployment rate is seven percent or above.~~

~~((ix)) (j) Do not qualify for other time limit extension criteria in this section and received TANF during a month on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above. The extension provided for under this subsection (2)(b)(ix) is equal to the number of months that you received TANF on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above.~~

**(3) Who reviews and approves a hardship time limit extension?**

(a) Your case manager or social worker will review your case and determine whether a hardship time limit extension type will be approved.

(b) This review will not happen until after you have received at least 52 months of assistance but before you reach your time limit or lose cash assistance due to the time limit.

(c) Before you reach your time limit or lose cash assistance due to the time limit, the department will send you a notice that tells you whether a hardship time limit extension will be approved, when your time limit expires, and how to request an administrative hearing if you disagree with the decision.

**(4) When I have an individual responsibility plan, do my Work-First participation requirements change when I receive a hardship TANF/SFA time limit extension?**

(a) Even if you qualify for a hardship TANF/SFA time limit extension you will still be required to participate as required in your individual responsibility plan (WAC 388-310-0500). You must still meet all of the WorkFirst participation requirements listed in chapter



388-310 WAC while you receive a hardship TANF/SFA time limit extension.

(b) If you do not participate in the WorkFirst activities required by your individual responsibility plan, and you do not have a good reason under WAC 388-310-1600, the department will follow the sanction rules in WAC 388-310-1600.

**(5) Do my benefits change if I receive a hardship TANF/SFA time limit extension?**

~~((a))~~ You are still a TANF/SFA recipient ~~((or an ineligible parent who is receiving TANF/SFA cash assistance on behalf of your child))~~ and your cash assistance, services, or supports will not change as long as you continue to meet all other TANF/SFA eligibility requirements.

~~((b))~~ During the hardship TANF/SFA time limit extension, you must continue to meet all other TANF/SFA eligibility requirements. If you no longer meet TANF/SFA eligibility criteria during your hardship time limit extension, your benefits will end.

**(6) How long will a hardship TANF/SFA time limit extension last?**

(a) We will review your hardship TANF/SFA time limit extension and your case periodically for changes in family circumstances:

(i) If you are extended under WAC 388-484-0006 (2) (a) ~~((, (b) (i) or (ii))~~ then we will review your extension at least every 12 months;

(ii) If you are extended under WAC 388-484-0006 (2) (b) ~~(( (iii)), ((iv), (v), or (vi))~~ (2) (c), (2) (d), or (2) (e) then we will review your extension at least every six months.

(b) Your hardship TANF/SFA time limit extension may be renewed for as long as you continue to meet the criteria to qualify for a hardship time limit extension.

(c) If during the extension period we get proof that your circumstances have changed, we may review your case and determine if you continue to qualify for a hardship TANF/SFA time limit extension. When you no longer qualify for a hardship TANF/SFA time limit extension we will stop your TANF/SFA cash assistance. You will be notified of your case closing and will be given the opportunity to request an administrative hearing before your benefits will stop.

**WSR 23-24-039**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed November 30, 2023, 8:33 a.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: This rule adoption amends the tables of classification base premium rates, experience rating plan parameters, and experience modification factor calculation limitations for the workers' compensation insurance program for calendar year 2024. Classification base rates were updated to align with expected losses. The department of labor and industries (L&I) is adopting a 4.9 percent overall average premium rate increase.

Washington law provides that rates should be adjusted annually to reflect the hazards of each industry in accordance with recognized workers' compensation insurance principles and to ensure solvency of the accident, medical aid, and supplemental pension funds.

Washington employers continue to deal with uncertainties associated with the pandemic and the global economy. In light of that, L&I is adopting an overall average rate increase of 4.9 percent to ensure adequate premiums to cover expected costs of 2024 claims. This increase is below the indicated break-even rate and consistent with our rate-making principle of keeping rates steady and predictable. This rate increase is required to partially account for three consecutive years of higher-than-normal increases in the state's average wage. L&I is able to minimize the increase for this upcoming year thanks to previous investment earnings that benefit the workers' compensation contingency reserve (surplus).

The adoption is also notice that the director intends to transfer the amount of the accident and medical-aid funds combined that exceed 10 percent of funded liabilities as required by RCW 51.44.023.

The adoption also repeals WAC 296-17-871 Director's discretion for incurred losses on claims with vocational plans, as this rule became obsolete with the 2015 amendment to RCW 51.32.096 Vocational rehabilitation benefits and options—Advisory committee—Procedures—Requirements—Definitions—Costs. The amendment to RCW 51.32.096 clarified that the vocational costs paid from the medical aid fund may not be charged to the state fund employer's cost experience, which was the intent of WAC 296-17-871 when created in 2010.

Citation of Rules Affected by this Order: Repealing WAC 296-17-871 Director's discretion for incurred losses on claims with vocational plans; and amending WAC 296-17-855 Experience modification, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89507 Horse racing rates, 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class, 296-17-920 Assessment for supplemental pension fund, 296-17B-540 Determining loss incurred for each claim, and 296-17B-900 Retrospective rating plans standard premium size ranges.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), 51.18.010 (retrospective rating), and 51.04.020(1) (general authority).

Adopted under notice filed as WSR 23-19-076 on September 19, 2023.

Changes Other than Editing from Proposed to Adopted Version: We removed an error that was inadvertently included in the proposed WAC 296-17-875 Primary losses for select claim value table. The error removed was 24,888 total loss after deduction; and 25,000 primary loss. The need for the correction was brought to our attention from written comments received during the public comment period.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 12, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2023.

Joel Sacks  
Director

**OTS-4920.4**

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-855 Experience modification.** The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\begin{aligned} & \text{EXPERIENCE MODIFICATION FACTOR} & = & \frac{(\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss})}{\text{Expected Loss}} \\ \text{Where} & & & \\ & \text{Credible Actual Primary Loss} & = & \text{Actual Primary Loss} \times \text{Primary Credibility} \\ & & + & \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility}) \\ & \text{Credible Actual Excess Loss} & = & \text{Actual Excess Loss} \times \text{Excess Credibility} \\ & & + & \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility}) \end{aligned}$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of ~~((\\$22,670))~~ \\$25,170 the actual primary loss shall be determined from the formula:

$$\text{Primary Loss} = \frac{((\cancel{56,670}) \ 62,920)}{(\text{Total Loss} + ((\cancel{34,000})) \ 37,750)} \times \text{Total Loss}$$

For each claim, less than ~~((\\$22,670))~~ \\$25,170 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of ~~((\\$3,570))~~ \\$3,670 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
(300)	Medical Only	0	0	0
4,000	Medical Only	430	430	0
4,000	Timeloss	4,000	4,000	0
30,000	Medical Only	26,430	24,786	1,644
30,000	Timeloss	30,000	26,564	3,436
130,000	PPD	130,000	44,921	85,079
500,000	TPD Pension	382,810	52,047	330,763
2,000,000	TPD Pension	382,810	52,047	330,763))
<u>2,000</u>	<u>Medical Only</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>5,000</u>	<u>Medical Only</u>	<u>1,330</u>	<u>1,330</u>	<u>0</u>
<u>5,000</u>	<u>Timeloss</u>	<u>5,000</u>	<u>5,000</u>	<u>0</u>
<u>30,000</u>	<u>Medical Only</u>	<u>26,330</u>	<u>25,853</u>	<u>477</u>
<u>30,000</u>	<u>Timeloss</u>	<u>30,000</u>	<u>27,861</u>	<u>2,139</u>
<u>90,000</u>	<u>PPD</u>	<u>90,000</u>	<u>44,327</u>	<u>45,673</u>
<u>150,000</u>	<u>PPD</u>	<u>150,000</u>	<u>50,269</u>	<u>99,731</u>
<u>500,000</u>	<u>TPD Pension</u>	<u>405,520</u>	<u>57,562</u>	<u>347,958</u>
<u>2,000,000</u>	<u>TPD Pension</u>	<u>405,520</u>	<u>57,562</u>	<u>347,958</u>

**Note:** The deduction, ~~((\\$3,570))~~ \\$3,670, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about ~~((seventy))~~ 70 percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-875 Table I.**

**Primary Losses for Selected Claim Values  
Effective January 1, ((2023)) 2024**

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
((22,670	22,670
26,839	25,000
38,245	30,000
54,915	35,000
81,584	40,000
131,105	45,000
176,118	47,500
382,810 **	52,047))
<u>25,170</u>	<u>25,170</u>
<u>34,402</u>	<u>30,000</u>
<u>47,323</u>	<u>35,000</u>
<u>65,881</u>	<u>40,000</u>
<u>94,796</u>	<u>45,000</u>
<u>116,286</u>	<u>47,500</u>
<u>405,520 **</u>	<u>57,562</u>

\*\* Maximum claim value

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-880 Table II.**

**PRIMARY AND EXCESS CREDIBILITY VALUES  
Effective January 1, ((2023)) 2024**

Maximum Claim Value = ((\$382,810)) \$405,520

Average Death Value = (~~(\$382,810)~~) \$405,520

Expected Losses	Primary Credibility	Excess Credibility
((0 - 5,913	12%	7%
5,914 - 6,313	13%	7%
6,314 - 6,716	14%	7%
6,717 - 7,123	15%	7%
7,124 - 7,538	16%	7%
7,539 - 7,956	17%	7%
7,957 - 8,380	18%	7%
8,381 - 8,809	19%	7%
8,810 - 9,242	20%	7%
9,243 - 9,684	21%	7%
9,685 - 10,130	22%	7%
10,131 - 10,586	23%	7%
10,587 - 11,044	24%	7%
11,045 - 11,512	25%	7%
11,513 - 11,989	26%	7%
11,990 - 12,470	27%	7%
12,471 - 12,962	28%	7%
12,963 - 13,461	29%	7%
13,462 - 13,969	30%	7%
13,970 - 14,489	31%	7%
14,490 - 15,015	32%	7%
15,016 - 15,555	33%	7%
15,556 - 16,107	34%	7%
16,108 - 16,670	35%	7%
16,671 - 17,246	36%	7%
17,247 - 17,836	37%	7%
17,837 - 18,446	38%	7%
18,447 - 19,066	39%	7%
19,067 - 19,707	40%	7%
19,708 - 20,366	41%	7%
20,367 - 21,049	42%	7%
21,050 - 21,754	43%	7%
21,755 - 22,485	44%	7%
22,486 - 23,247	45%	7%
23,248 - 24,043	46%	7%
24,044 - 24,875	47%	7%
24,876 - 25,754	48%	7%
25,755 - 26,687	49%	7%
26,688 - 27,679	50%	7%
27,680 - 28,753	51%	7%
28,754 - 29,929	52%	7%
29,930 - 31,238	53%	7%
31,239 - 31,373	54%	7%
31,374 - 32,749	54%	8%
32,750 - 34,593	55%	8%

Expected Losses		Primary Credibility	Excess Credibility
34,594	- 52,356	56%	8%
52,357	- 57,705	57%	8%
57,706	- 82,425	57%	9%
82,426	- 84,895	57%	10%
84,896	- 107,296	58%	10%
107,297	- 117,434	58%	11%
117,435	- 132,322	59%	11%
132,323	- 149,976	59%	12%
149,977	- 157,499	60%	12%
157,500	- 182,517	60%	13%
182,518	- 182,836	61%	13%
182,837	- 208,329	61%	14%
208,330	- 215,056	61%	15%
215,057	- 233,982	62%	15%
233,983	- 247,596	62%	16%
247,597	- 259,797	63%	16%
259,798	- 280,137	63%	17%
280,138	- 285,775	64%	17%
285,776	- 311,915	64%	18%
311,916	- 312,675	64%	19%
312,676	- 338,225	65%	19%
338,226	- 345,215	65%	20%
345,216	- 364,695	66%	20%
364,696	- 377,757	66%	21%
377,758	- 391,337	67%	21%
391,338	- 410,298	67%	22%
410,299	- 418,150	68%	22%
418,151	- 442,834	68%	23%
442,835	- 445,136	69%	23%
445,137	- 472,293	69%	24%
472,294	- 475,375	69%	25%
475,376	- 499,626	70%	25%
499,627	- 507,918	70%	26%
507,919	- 527,137	71%	26%
527,138	- 540,458	71%	27%
540,459	- 554,826	72%	27%
554,827	- 572,998	72%	28%
572,999	- 582,695	73%	28%
582,696	- 605,539	73%	29%
605,540	- 610,747	74%	29%
610,748	- 638,079	74%	30%
638,080	- 638,984	75%	30%
638,985	- 667,405	75%	31%
667,406	- 670,618	75%	32%
670,619	- 696,016	76%	32%
696,017	- 703,159	76%	33%
703,160	- 724,812	77%	33%

Expected Losses		Primary Credibility	Excess Credibility
724,813	- 735,699	77%	34%
735,700	- 753,805	78%	34%
753,806	- 768,239	78%	35%
768,240	- 782,987	79%	35%
782,988	- 800,780	79%	36%
800,781	- 812,367	80%	36%
812,368	- 833,318	80%	37%
833,319	- 841,945	81%	37%
841,946	- 865,859	81%	38%
865,860	- 871,721	82%	38%
871,722	- 898,401	82%	39%
898,402	- 901,698	83%	39%
901,699	- 930,941	83%	40%
930,942	- 931,877	84%	40%
931,878	- 962,264	84%	41%
962,265	- 963,478	84%	42%
963,479	- 992,855	85%	42%
992,856	- 996,018	85%	43%
996,019	- 1,023,660	86%	43%
1,023,661	- 1,028,560	86%	44%
1,028,561	- 1,054,674	87%	44%
1,054,675	- 1,061,101	87%	45%
1,061,102	- 1,085,904	88%	45%
1,085,905	- 1,093,641	88%	46%
1,093,642	- 1,117,349	89%	46%
1,117,350	- 1,126,180	89%	47%
1,126,181	- 1,149,014	90%	47%
1,149,015	- 1,158,722	90%	48%
1,158,723	- 1,180,898	91%	48%
1,180,899	- 1,191,260	91%	49%
1,191,261	- 1,213,005	92%	49%
1,213,006	- 1,223,803	92%	50%
1,223,804	- 1,245,338	93%	50%
1,245,339	- 1,256,342	93%	51%
1,256,343	- 1,277,900	94%	51%
1,277,901	- 1,288,881	94%	52%
1,288,882	- 1,310,692	95%	52%
1,310,693	- 1,321,421	95%	53%
1,321,422	- 1,343,715	96%	53%
1,343,716	- 1,353,962	96%	54%
1,353,963	- 1,376,974	97%	54%
1,376,975	- 1,386,502	97%	55%
1,386,503	- 1,410,470	98%	55%
1,410,471	- 1,419,043	98%	56%
1,419,044	- 1,444,207	99%	56%
1,444,208	- 1,451,582	99%	57%
1,451,583	- 1,478,186	100%	57%



Expected Losses		Primary Credibility	Excess Credibility
1,478,187	- 1,512,412	100%	58%
1,512,413	- 1,546,887	100%	59%
1,546,888	- 1,581,611	100%	60%
1,581,612	- 1,616,589	100%	61%
1,616,590	- 1,651,823	100%	62%
1,651,824	- 1,687,318	100%	63%
1,687,319	- 1,723,073	100%	64%
1,723,074	- 1,759,094	100%	65%
1,759,095	- 1,795,381	100%	66%
1,795,382	- 1,831,943	100%	67%
1,831,944	- 1,868,775	100%	68%
1,868,776	- 1,905,886	100%	69%
1,905,887	- 1,943,278	100%	70%
1,943,279	- 1,980,953	100%	71%
1,980,954	- 2,018,915	100%	72%
2,018,916	- 2,057,167	100%	73%
2,057,168	- 2,095,712	100%	74%
2,095,713	- 2,134,552	100%	75%
2,134,553	- 2,173,694	100%	76%
2,173,695	- 2,213,138	100%	77%
2,213,139	- 2,252,890	100%	78%
2,252,891	- 2,292,953	100%	79%
2,292,954	- 2,333,331	100%	80%
2,333,332	- 2,374,029	100%	81%
2,374,030	- 2,415,044	100%	82%
2,415,045	- 2,456,389	100%	83%
2,456,390	- 2,498,059	100%	84%
2,498,060	- 2,540,067	100%	85%
2,540,068	and higher	100%	86%))
<u>0</u>	= <u>6,061</u>	<u>12%</u>	<u>7%</u>
<u>6,062</u>	= <u>6,471</u>	<u>13%</u>	<u>7%</u>
<u>6,472</u>	= <u>6,884</u>	<u>14%</u>	<u>7%</u>
<u>6,885</u>	= <u>7,301</u>	<u>15%</u>	<u>7%</u>
<u>7,302</u>	= <u>7,726</u>	<u>16%</u>	<u>7%</u>
<u>7,727</u>	= <u>8,155</u>	<u>17%</u>	<u>7%</u>
<u>8,156</u>	= <u>8,590</u>	<u>18%</u>	<u>7%</u>
<u>8,591</u>	= <u>9,029</u>	<u>19%</u>	<u>7%</u>
<u>9,030</u>	= <u>9,473</u>	<u>20%</u>	<u>7%</u>
<u>9,474</u>	= <u>9,926</u>	<u>21%</u>	<u>7%</u>
<u>9,927</u>	= <u>10,383</u>	<u>22%</u>	<u>7%</u>
<u>10,384</u>	= <u>10,851</u>	<u>23%</u>	<u>7%</u>
<u>10,852</u>	= <u>11,320</u>	<u>24%</u>	<u>7%</u>
<u>11,321</u>	= <u>11,800</u>	<u>25%</u>	<u>7%</u>
<u>11,801</u>	= <u>12,289</u>	<u>26%</u>	<u>7%</u>
<u>12,290</u>	= <u>12,782</u>	<u>27%</u>	<u>7%</u>
<u>12,783</u>	= <u>13,286</u>	<u>28%</u>	<u>7%</u>
<u>13,287</u>	= <u>13,798</u>	<u>29%</u>	<u>7%</u>

Expected Losses		Primary Credibility	Excess Credibility	
<u>13,799</u>	=	<u>14,318</u>	30%	<u>7%</u>
<u>14,319</u>	=	<u>14,851</u>	31%	<u>7%</u>
<u>14,852</u>	=	<u>15,390</u>	32%	<u>7%</u>
<u>15,391</u>	=	<u>15,944</u>	33%	<u>7%</u>
<u>15,945</u>	=	<u>16,510</u>	34%	<u>7%</u>
<u>16,511</u>	=	<u>17,087</u>	35%	<u>7%</u>
<u>17,088</u>	=	<u>17,677</u>	36%	<u>7%</u>
<u>17,678</u>	=	<u>18,282</u>	37%	<u>7%</u>
<u>18,283</u>	=	<u>18,907</u>	38%	<u>7%</u>
<u>18,908</u>	=	<u>19,543</u>	39%	<u>7%</u>
<u>19,544</u>	=	<u>20,200</u>	40%	<u>7%</u>
<u>20,201</u>	=	<u>20,875</u>	41%	<u>7%</u>
<u>20,876</u>	=	<u>21,575</u>	42%	<u>7%</u>
<u>21,576</u>	=	<u>22,298</u>	43%	<u>7%</u>
<u>22,299</u>	=	<u>23,047</u>	44%	<u>7%</u>
<u>23,048</u>	=	<u>23,828</u>	45%	<u>7%</u>
<u>23,829</u>	=	<u>24,644</u>	46%	<u>7%</u>
<u>24,645</u>	=	<u>25,497</u>	47%	<u>7%</u>
<u>25,498</u>	=	<u>26,398</u>	48%	<u>7%</u>
<u>26,399</u>	=	<u>27,354</u>	49%	<u>7%</u>
<u>27,355</u>	=	<u>28,371</u>	50%	<u>7%</u>
<u>28,372</u>	=	<u>29,472</u>	51%	<u>7%</u>
<u>29,473</u>	=	<u>30,677</u>	52%	<u>7%</u>
<u>30,678</u>	=	<u>32,019</u>	53%	<u>7%</u>
<u>32,020</u>	=	<u>32,157</u>	54%	<u>7%</u>
<u>32,158</u>	=	<u>33,568</u>	54%	<u>8%</u>
<u>33,569</u>	=	<u>35,458</u>	55%	<u>8%</u>
<u>35,459</u>	=	<u>53,665</u>	56%	<u>8%</u>
<u>53,666</u>	=	<u>59,148</u>	57%	<u>8%</u>
<u>59,149</u>	=	<u>84,486</u>	57%	<u>9%</u>
<u>84,487</u>	=	<u>87,017</u>	57%	<u>10%</u>
<u>87,018</u>	=	<u>109,978</u>	58%	<u>10%</u>
<u>109,979</u>	=	<u>120,370</u>	58%	<u>11%</u>
<u>120,371</u>	=	<u>135,630</u>	59%	<u>11%</u>
<u>135,631</u>	=	<u>153,725</u>	59%	<u>12%</u>
<u>153,726</u>	=	<u>161,437</u>	60%	<u>12%</u>
<u>161,438</u>	=	<u>187,080</u>	60%	<u>13%</u>
<u>187,081</u>	=	<u>187,407</u>	61%	<u>13%</u>
<u>187,408</u>	=	<u>213,537</u>	61%	<u>14%</u>
<u>213,538</u>	=	<u>220,432</u>	61%	<u>15%</u>
<u>220,433</u>	=	<u>239,832</u>	62%	<u>15%</u>
<u>239,833</u>	=	<u>253,786</u>	62%	<u>16%</u>
<u>253,787</u>	=	<u>266,292</u>	63%	<u>16%</u>
<u>266,293</u>	=	<u>287,140</u>	63%	<u>17%</u>
<u>287,141</u>	=	<u>292,919</u>	64%	<u>17%</u>
<u>292,920</u>	=	<u>319,713</u>	64%	<u>18%</u>
<u>319,714</u>	=	<u>320,492</u>	64%	<u>19%</u>

Expected Losses		Primary Credibility	Excess Credibility	
<u>320,493</u>	=	<u>346,681</u>	65%	19%
<u>346,682</u>	=	<u>353,845</u>	65%	20%
<u>353,846</u>	=	<u>373,812</u>	66%	20%
<u>373,813</u>	=	<u>387,201</u>	66%	21%
<u>387,202</u>	=	<u>401,120</u>	67%	21%
<u>401,121</u>	=	<u>420,555</u>	67%	22%
<u>420,556</u>	=	<u>428,604</u>	68%	22%
<u>428,605</u>	=	<u>453,905</u>	68%	23%
<u>453,906</u>	=	<u>456,264</u>	69%	23%
<u>456,265</u>	=	<u>484,100</u>	69%	24%
<u>484,101</u>	=	<u>487,259</u>	69%	25%
<u>487,260</u>	=	<u>512,117</u>	70%	25%
<u>512,118</u>	=	<u>520,616</u>	70%	26%
<u>520,617</u>	=	<u>540,315</u>	71%	26%
<u>540,316</u>	=	<u>553,969</u>	71%	27%
<u>553,970</u>	=	<u>568,697</u>	72%	27%
<u>568,698</u>	=	<u>587,323</u>	72%	28%
<u>587,324</u>	=	<u>597,262</u>	73%	28%
<u>597,263</u>	=	<u>620,678</u>	73%	29%
<u>620,679</u>	=	<u>626,016</u>	74%	29%
<u>626,017</u>	=	<u>654,031</u>	74%	30%
<u>654,032</u>	=	<u>654,959</u>	75%	30%
<u>654,960</u>	=	<u>684,090</u>	75%	31%
<u>684,091</u>	=	<u>687,383</u>	75%	32%
<u>687,384</u>	=	<u>713,416</u>	76%	32%
<u>713,417</u>	=	<u>720,738</u>	76%	33%
<u>720,739</u>	=	<u>742,932</u>	77%	33%
<u>742,933</u>	=	<u>754,092</u>	77%	34%
<u>754,093</u>	=	<u>772,650</u>	78%	34%
<u>772,651</u>	=	<u>787,445</u>	78%	35%
<u>787,446</u>	=	<u>802,562</u>	79%	35%
<u>802,563</u>	=	<u>820,800</u>	79%	36%
<u>820,801</u>	=	<u>832,676</u>	80%	36%
<u>832,677</u>	=	<u>854,151</u>	80%	37%
<u>854,152</u>	=	<u>862,994</u>	81%	37%
<u>862,995</u>	=	<u>887,506</u>	81%	38%
<u>887,507</u>	=	<u>893,514</u>	82%	38%
<u>893,515</u>	=	<u>920,861</u>	82%	39%
<u>920,862</u>	=	<u>924,240</u>	83%	39%
<u>924,241</u>	=	<u>954,215</u>	83%	40%
<u>954,216</u>	=	<u>955,174</u>	84%	40%
<u>955,175</u>	=	<u>986,321</u>	84%	41%
<u>986,322</u>	=	<u>987,565</u>	84%	42%
<u>987,566</u>	=	<u>1,017,676</u>	85%	42%
<u>1,017,677</u>	=	<u>1,020,918</u>	85%	43%
<u>1,020,919</u>	=	<u>1,049,252</u>	86%	43%
<u>1,049,253</u>	=	<u>1,054,274</u>	86%	44%

Expected Losses		Primary Credibility	Excess Credibility
<u>1,054,275</u>	- <u>1,081,041</u>	87%	44%
<u>1,081,042</u>	- <u>1,087,629</u>	87%	45%
<u>1,087,630</u>	- <u>1,113,052</u>	88%	45%
<u>1,113,053</u>	- <u>1,120,982</u>	88%	46%
<u>1,120,983</u>	- <u>1,145,283</u>	89%	46%
<u>1,145,284</u>	- <u>1,154,335</u>	89%	47%
<u>1,154,336</u>	- <u>1,177,739</u>	90%	47%
<u>1,177,740</u>	- <u>1,187,690</u>	90%	48%
<u>1,187,691</u>	- <u>1,210,420</u>	91%	48%
<u>1,210,421</u>	- <u>1,221,042</u>	91%	49%
<u>1,221,043</u>	- <u>1,243,330</u>	92%	49%
<u>1,243,331</u>	- <u>1,254,398</u>	92%	50%
<u>1,254,399</u>	- <u>1,276,471</u>	93%	50%
<u>1,276,472</u>	- <u>1,287,751</u>	93%	51%
<u>1,287,752</u>	- <u>1,309,848</u>	94%	51%
<u>1,309,849</u>	- <u>1,321,103</u>	94%	52%
<u>1,321,104</u>	- <u>1,343,459</u>	95%	52%
<u>1,343,460</u>	- <u>1,354,457</u>	95%	53%
<u>1,354,458</u>	- <u>1,377,308</u>	96%	53%
<u>1,377,309</u>	- <u>1,387,811</u>	96%	54%
<u>1,387,812</u>	- <u>1,411,398</u>	97%	54%
<u>1,411,399</u>	- <u>1,421,165</u>	97%	55%
<u>1,421,166</u>	- <u>1,445,732</u>	98%	55%
<u>1,445,733</u>	- <u>1,454,519</u>	98%	56%
<u>1,454,520</u>	- <u>1,480,312</u>	99%	56%
<u>1,480,313</u>	- <u>1,487,872</u>	99%	57%
<u>1,487,873</u>	- <u>1,515,141</u>	100%	57%
<u>1,515,142</u>	- <u>1,550,222</u>	100%	58%
<u>1,550,223</u>	- <u>1,585,559</u>	100%	59%
<u>1,585,560</u>	- <u>1,621,151</u>	100%	60%
<u>1,621,152</u>	- <u>1,657,004</u>	100%	61%
<u>1,657,005</u>	- <u>1,693,119</u>	100%	62%
<u>1,693,120</u>	- <u>1,729,501</u>	100%	63%
<u>1,729,502</u>	- <u>1,766,150</u>	100%	64%
<u>1,766,151</u>	- <u>1,803,071</u>	100%	65%
<u>1,803,072</u>	- <u>1,840,266</u>	100%	66%
<u>1,840,267</u>	- <u>1,877,742</u>	100%	67%
<u>1,877,743</u>	- <u>1,915,494</u>	100%	68%
<u>1,915,495</u>	- <u>1,953,533</u>	100%	69%
<u>1,953,534</u>	- <u>1,991,860</u>	100%	70%
<u>1,991,861</u>	- <u>2,030,477</u>	100%	71%
<u>2,030,478</u>	- <u>2,069,388</u>	100%	72%
<u>2,069,389</u>	- <u>2,108,596</u>	100%	73%
<u>2,108,597</u>	- <u>2,148,105</u>	100%	74%
<u>2,148,106</u>	- <u>2,187,916</u>	100%	75%
<u>2,187,917</u>	- <u>2,228,036</u>	100%	76%
<u>2,228,037</u>	- <u>2,268,466</u>	100%	77%

Expected Losses		Primary Credibility	Excess Credibility
<u>2,268,467</u>	= <u>2,309,212</u>	100%	78%
<u>2,309,213</u>	= <u>2,350,277</u>	100%	79%
<u>2,350,278</u>	= <u>2,391,664</u>	100%	80%
<u>2,391,665</u>	= <u>2,433,380</u>	100%	81%
<u>2,433,381</u>	= <u>2,475,420</u>	100%	82%
<u>2,475,421</u>	= <u>2,517,799</u>	100%	83%
<u>2,517,800</u>	= <u>2,560,511</u>	100%	84%
<u>2,560,512</u>	= <u>2,603,569</u>	100%	85%
<u>2,603,570</u>	and higher	100%	86%

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-885 Table III.**

**Expected Loss Rates and Primary Ratios  
by Risk Classification and Fiscal Year  
Expected Loss Rates in Dollars Per Worker Hour  
Effective January 1, ((2023)) 2024**

((Class	2019	2020	2021	Primary Ratio
101	0.6962	0.6462	0.5405	0.401
103	0.8755	0.8212	0.7009	0.412
104	0.6069	0.5634	0.4706	0.415
105	0.7505	0.7045	0.5883	0.484
106	1.8780	1.7702	1.5198	0.448
107	0.6123	0.5693	0.4754	0.429
108	0.6069	0.5634	0.4706	0.415
112	0.5147	0.4809	0.4064	0.423
201	1.4181	1.3098	1.0974	0.355
202	1.2796	1.1855	0.9853	0.409
210	0.6587	0.6119	0.5157	0.395
212	0.6190	0.5779	0.4832	0.432
214	1.1322	1.0460	0.8618	0.418
217	0.7426	0.6926	0.5794	0.438
219	0.5157	0.4801	0.3979	0.457
301	0.7180	0.6742	0.5690	0.471
302	1.3363	1.2407	1.0374	0.396
303	1.2046	1.1223	0.9387	0.416
306	0.5270	0.4903	0.4085	0.439
307	0.5605	0.5238	0.4354	0.477
308	0.4481	0.4225	0.3581	0.509
403	1.1279	1.0514	0.8683	0.467
502	0.6063	0.5635	0.4598	0.473
504	1.2843	1.1981	1.0141	0.401
507	2.0470	1.9210	1.6578	0.394
508	1.0124	0.9339	0.7744	0.367

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>509</b>	0.5847	0.5383	0.4487	0.352
<b>510</b>	1.6072	1.5043	1.2807	0.412
<b>511</b>	0.9023	0.8410	0.6957	0.473
<b>512</b>	0.8150	0.7622	0.6441	0.445
<b>513</b>	0.5963	0.5562	0.4646	0.447
<b>514</b>	0.8380	0.7849	0.6629	0.464
<b>516</b>	1.0530	0.9826	0.8214	0.442
<b>517</b>	1.1401	1.0619	0.9013	0.376
<b>518</b>	0.8006	0.7429	0.6198	0.417
<b>519</b>	1.0676	0.9937	0.8295	0.424
<b>521</b>	0.4823	0.4515	0.3817	0.449
<b>601</b>	0.3471	0.3225	0.2666	0.453
<b>602</b>	0.4750	0.4372	0.3564	0.408
<b>603</b>	0.5569	0.5157	0.4275	0.402
<b>604</b>	0.7619	0.7138	0.6020	0.454
<b>606</b>	0.4161	0.3896	0.3173	0.543
<b>607</b>	0.5658	0.5279	0.4312	0.500
<b>608</b>	0.2973	0.2757	0.2252	0.460
<b>701</b>	1.0495	0.9693	0.8120	0.355
<b>803</b>	0.4643	0.4333	0.3541	0.516
<b>901</b>	0.8006	0.7429	0.6198	0.417
<b>1002</b>	0.5730	0.5332	0.4451	0.430
<b>1003</b>	0.4591	0.4288	0.3546	0.479
<b>1004</b>	0.3153	0.2925	0.2381	0.455
<b>1005</b>	6.1984	5.7597	4.7437	0.415
<b>1006</b>	0.1786	0.1671	0.1361	0.534
<b>1007</b>	0.2432	0.2274	0.1890	0.472
<b>1101</b>	0.8724	0.8146	0.6665	0.501
<b>1102</b>	1.1854	1.0979	0.9098	0.400
<b>1103</b>	0.7932	0.7396	0.6016	0.490
<b>1104</b>	0.4655	0.4373	0.3666	0.492
<b>1105</b>	0.6010	0.5603	0.4578	0.496
<b>1106</b>	0.2993	0.2820	0.2348	0.546
<b>1108</b>	0.3695	0.3480	0.2926	0.501
<b>1109</b>	1.4619	1.3625	1.1344	0.433
<b>1301</b>	0.4917	0.4579	0.3777	0.466
<b>1303</b>	0.2939	0.2739	0.2222	0.523
<b>1304</b>	0.0141	0.0132	0.0109	0.497
<b>1305</b>	0.3659	0.3407	0.2789	0.470
<b>1401</b>	0.2517	0.2382	0.2034	0.497
<b>1404</b>	0.5941	0.5587	0.4652	0.515
<b>1405</b>	0.5736	0.5375	0.4421	0.528
<b>1407</b>	0.5046	0.4719	0.3870	0.515
<b>1501</b>	0.6423	0.5979	0.4880	0.486
<b>1507</b>	0.3411	0.3201	0.2663	0.516
<b>1701</b>	0.6024	0.5621	0.4707	0.422
<b>1702</b>	0.8383	0.7701	0.6447	0.315

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
1703	0.6391	0.5919	0.4883	0.407
1704	0.6024	0.5621	0.4707	0.422
1801	0.3559	0.3304	0.2752	0.406
1802	0.5695	0.5286	0.4404	0.406
2002	0.5572	0.5212	0.4368	0.465
2004	0.4613	0.4336	0.3579	0.558
2007	0.5300	0.4975	0.4236	0.439
2008	0.2541	0.2394	0.2002	0.507
2009	0.2997	0.2826	0.2397	0.507
2101	0.4832	0.4551	0.3863	0.492
2102	0.5361	0.5040	0.4251	0.480
2103	1.2790	1.1957	0.9545	0.574
2104	0.3193	0.3040	0.2617	0.555
2105	0.5497	0.5138	0.4179	0.531
2106	0.4499	0.4227	0.3536	0.511
2201	0.2807	0.2653	0.2258	0.511
2202	0.5566	0.5207	0.4309	0.503
2203	0.4128	0.3890	0.3255	0.540
2204	0.2807	0.2653	0.2258	0.511
2401	0.3513	0.3278	0.2732	0.453
2903	0.5090	0.4802	0.4072	0.502
2904	0.5117	0.4778	0.4075	0.401
2905	0.4265	0.4016	0.3367	0.524
2906	0.4269	0.4024	0.3458	0.463
2907	0.3635	0.3428	0.2858	0.552
2908	0.6991	0.6589	0.5536	0.524
2909	0.3309	0.3133	0.2695	0.461
3101	0.5761	0.5388	0.4493	0.484
3102	0.2057	0.1919	0.1596	0.469
3103	0.2688	0.2517	0.2131	0.426
3104	0.5826	0.5481	0.4593	0.529
3105	0.6675	0.6300	0.5405	0.475
3303	0.3048	0.2861	0.2377	0.517
3304	0.5735	0.5399	0.4580	0.495
3309	0.3212	0.3010	0.2497	0.504
3402	0.3407	0.3199	0.2687	0.498
3403	0.1016	0.0950	0.0793	0.484
3404	0.4011	0.3759	0.3131	0.504
3405	0.2136	0.2001	0.1670	0.497
3406	0.2233	0.2098	0.1734	0.537
3407	0.5848	0.5448	0.4531	0.440
3408	0.2229	0.2084	0.1678	0.544
3409	0.1446	0.1362	0.1128	0.546
3410	0.1446	0.1362	0.1128	0.546
3411	0.3818	0.3558	0.2942	0.473
3412	0.5146	0.4770	0.3953	0.411
3414	0.6431	0.5999	0.4925	0.493

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>3415</b>	0.9964	0.9324	0.7641	0.520
<b>3501</b>	0.3471	0.3276	0.2810	0.475
<b>3503</b>	0.2743	0.2577	0.2135	0.527
<b>3506</b>	0.6054	0.5633	0.4703	0.428
<b>3509</b>	0.3912	0.3670	0.2991	0.550
<b>3510</b>	0.2989	0.2819	0.2410	0.493
<b>3511</b>	0.6438	0.6052	0.5113	0.476
<b>3512</b>	0.3016	0.2845	0.2390	0.537
<b>3513</b>	0.3410	0.3206	0.2700	0.488
<b>3602</b>	0.0802	0.0753	0.0632	0.507
<b>3603</b>	0.3738	0.3512	0.2955	0.480
<b>3604</b>	0.6175	0.5796	0.4890	0.470
<b>3605</b>	0.3407	0.3199	0.2687	0.498
<b>3701</b>	0.2057	0.1919	0.1596	0.469
<b>3702</b>	0.3015	0.2835	0.2360	0.528
<b>3708</b>	0.5060	0.4742	0.4012	0.454
<b>3802</b>	0.1663	0.1565	0.1325	0.497
<b>3808</b>	0.3153	0.2956	0.2481	0.484
<b>3901</b>	0.1266	0.1197	0.1000	0.579
<b>3902</b>	0.4038	0.3806	0.3179	0.549
<b>3903</b>	0.5269	0.4967	0.4150	0.549
<b>3905</b>	0.1119	0.1061	0.0901	0.558
<b>3906</b>	0.3971	0.3749	0.3180	0.521
<b>3909</b>	0.2227	0.2102	0.1755	0.565
<b>4101</b>	0.1825	0.1716	0.1435	0.531
<b>4103</b>	0.4414	0.4154	0.3521	0.485
<b>4107</b>	0.1529	0.1429	0.1185	0.486
<b>4108</b>	0.1379	0.1295	0.1081	0.534
<b>4109</b>	0.1693	0.1599	0.1362	0.499
<b>4201</b>	0.6293	0.5809	0.4695	0.438
<b>4301</b>	0.7010	0.6625	0.5645	0.515
<b>4302</b>	0.5853	0.5482	0.4587	0.478
<b>4304</b>	0.7809	0.7399	0.6387	0.489
<b>4305</b>	0.8480	0.7900	0.6430	0.489
<b>4401</b>	0.3048	0.2861	0.2377	0.517
<b>4402</b>	0.5118	0.4781	0.3929	0.508
<b>4404</b>	0.3762	0.3529	0.2985	0.467
<b>4501</b>	0.1419	0.1335	0.1093	0.571
<b>4502</b>	0.0492	0.0461	0.0385	0.480
<b>4504</b>	0.0998	0.0942	0.0786	0.580
<b>4802</b>	0.3634	0.3422	0.2906	0.493
<b>4803</b>	0.3750	0.3551	0.3018	0.549
<b>4804</b>	0.4516	0.4272	0.3651	0.516
<b>4805</b>	0.3090	0.2928	0.2499	0.540
<b>4806</b>	0.1193	0.1130	0.0941	0.595
<b>4808</b>	0.4068	0.3819	0.3238	0.456
<b>4809</b>	0.2045	0.1927	0.1633	0.503



<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>4810</b>	0.2281	0.2154	0.1806	0.547
<b>4811</b>	0.3992	0.3783	0.3253	0.508
<b>4812</b>	0.3535	0.3319	0.2812	0.482
<b>4813</b>	0.2405	0.2281	0.1939	0.564
<b>4814</b>	0.1052	0.1003	0.0872	0.552
<b>4815</b>	0.2167	0.2070	0.1807	0.565
<b>4816</b>	0.2960	0.2820	0.2473	0.509
<b>4900</b>	0.0949	0.0885	0.0739	0.460
<b>4901</b>	0.0315	0.0293	0.0241	0.468
<b>4902</b>	0.0669	0.0626	0.0516	0.510
<b>4903</b>	0.1422	0.1327	0.1078	0.522
<b>4904</b>	0.0116	0.0109	0.0091	0.546
<b>4905</b>	0.3153	0.2981	0.2518	0.546
<b>4906</b>	0.0899	0.0841	0.0686	0.536
<b>4907</b>	0.0462	0.0442	0.0380	0.607
<b>4908</b>	0.0792	0.0756	0.0645	0.594
<b>4909</b>	0.0317	0.0303	0.0258	0.594
<b>4910</b>	0.3781	0.3537	0.2935	0.489
<b>4911</b>	0.0472	0.0441	0.0372	0.447
<b>5001</b>	5.8422	5.4258	4.6022	0.348
<b>5002</b>	0.4629	0.4329	0.3546	0.518
<b>5003</b>	1.7799	1.6533	1.3800	0.386
<b>5004</b>	0.8005	0.7565	0.6631	0.397
<b>5005</b>	0.7327	0.6803	0.5695	0.391
<b>5006</b>	0.9072	0.8407	0.6998	0.382
<b>5101</b>	0.7280	0.6765	0.5541	0.450
<b>5103</b>	0.7002	0.6585	0.5531	0.509
<b>5106</b>	0.7002	0.6585	0.5531	0.509
<b>5108</b>	0.6725	0.6290	0.5112	0.532
<b>5109</b>	0.3735	0.3481	0.2873	0.489
<b>5201</b>	0.2402	0.2256	0.1865	0.549
<b>5204</b>	0.7898	0.7314	0.5957	0.437
<b>5206</b>	0.3158	0.2954	0.2508	0.421
<b>5207</b>	0.1212	0.1145	0.0968	0.538
<b>5208</b>	0.4809	0.4498	0.3779	0.471
<b>5209</b>	0.4923	0.4611	0.3860	0.486
<b>5300</b>	0.0770	0.0721	0.0594	0.527
<b>5301</b>	0.0246	0.0231	0.0193	0.493
<b>5302</b>	0.0058	0.0054	0.0045	0.505
<b>5305</b>	0.0349	0.0328	0.0272	0.541
<b>5306</b>	0.0333	0.0313	0.0259	0.571
<b>5307</b>	0.5632	0.5243	0.4276	0.491
<b>5308</b>	0.0687	0.0649	0.0550	0.531
<b>6103</b>	0.0779	0.0738	0.0621	0.583
<b>6104</b>	0.3124	0.2936	0.2441	0.534
<b>6105</b>	0.4184	0.3901	0.3205	0.494
<b>6107</b>	0.1403	0.1338	0.1128	0.639

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>6108</b>	0.2133	0.2022	0.1709	0.583
<b>6109</b>	0.0938	0.0875	0.0718	0.495
<b>6110</b>	0.3357	0.3137	0.2560	0.528
<b>6120</b>	0.2662	0.2487	0.2036	0.520
<b>6121</b>	0.3777	0.3518	0.2835	0.522
<b>6201</b>	0.4189	0.3917	0.3199	0.514
<b>6202</b>	0.6827	0.6406	0.5282	0.525
<b>6203</b>	0.0851	0.0813	0.0702	0.614
<b>6204</b>	0.1100	0.1039	0.0878	0.541
<b>6205</b>	0.1433	0.1349	0.1130	0.521
<b>6206</b>	0.1650	0.1554	0.1292	0.552
<b>6207</b>	0.7937	0.7464	0.6264	0.475
<b>6208</b>	0.1964	0.1867	0.1589	0.580
<b>6209</b>	0.2299	0.2179	0.1864	0.534
<b>6301</b>	0.1090	0.1017	0.0850	0.435
<b>6303</b>	0.0395	0.0370	0.0307	0.501
<b>6305</b>	0.0852	0.0804	0.0671	0.574
<b>6306</b>	0.3118	0.2928	0.2403	0.556
<b>6308</b>	0.0550	0.0515	0.0426	0.503
<b>6309</b>	0.1814	0.1707	0.1425	0.533
<b>6402</b>	0.2129	0.2012	0.1688	0.567
<b>6403</b>	0.1245	0.1174	0.0972	0.574
<b>6404</b>	0.2526	0.2383	0.2020	0.522
<b>6405</b>	0.5233	0.4894	0.4022	0.509
<b>6406</b>	0.1315	0.1238	0.1023	0.574
<b>6407</b>	0.2335	0.2196	0.1834	0.531
<b>6408</b>	0.5262	0.4938	0.4143	0.483
<b>6409</b>	0.5728	0.5345	0.4417	0.479
<b>6410</b>	0.2509	0.2352	0.1940	0.534
<b>6411</b>	0.0350	0.0331	0.0284	0.517
<b>6501</b>	0.0859	0.0804	0.0652	0.558
<b>6502</b>	0.0181	0.0169	0.0141	0.491
<b>6503</b>	0.0681	0.0633	0.0506	0.528
<b>6504</b>	0.2364	0.2248	0.1912	0.590
<b>6505</b>	0.1353	0.1284	0.1076	0.631
<b>6506</b>	0.1019	0.0957	0.0793	0.533
<b>6509</b>	0.1985	0.1881	0.1586	0.573
<b>6510</b>	0.3155	0.2920	0.2402	0.404
<b>6511</b>	0.2332	0.2199	0.1828	0.561
<b>6512</b>	0.0755	0.0707	0.0591	0.455
<b>6601</b>	0.1671	0.1575	0.1316	0.507
<b>6602</b>	0.5013	0.4725	0.4011	0.488
<b>6603</b>	0.2437	0.2298	0.1925	0.549
<b>6604</b>	0.0569	0.0535	0.0448	0.538
<b>6605</b>	0.2478	0.2326	0.1895	0.565
<b>6607</b>	0.0878	0.0830	0.0702	0.536
<b>6608</b>	0.3748	0.3452	0.2833	0.384

<b>((Class</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<b>6620</b>	2.8489	2.6600	2.1135	0.576
<b>6704</b>	0.1057	0.0995	0.0822	0.569
<b>6705</b>	0.6447	0.6138	0.5278	0.577
<b>6706</b>	0.2064	0.1951	0.1674	0.516
<b>6707</b>	9.5297	9.0489	7.4637	0.658
<b>6708</b>	7.6928	7.3306	6.4654	0.480
<b>6709</b>	0.2253	0.2120	0.1759	0.552
<b>6801</b>	0.5454	0.5052	0.3922	0.539
<b>6802</b>	0.7268	0.6793	0.5496	0.538
<b>6803</b>	0.4017	0.3698	0.3022	0.403
<b>6804</b>	0.2168	0.2037	0.1683	0.549
<b>6809</b>	3.0048	2.8437	2.4114	0.545
<b>6901</b>	0.0193	0.0199	0.0201	0.817
<b>6902</b>	0.6118	0.5712	0.4816	0.419
<b>6903</b>	3.1754	2.9366	2.5040	0.321
<b>6904</b>	0.9100	0.8433	0.6807	0.465
<b>6905</b>	0.6772	0.6280	0.5090	0.486
<b>6906</b>	0.2484	0.2440	0.2321	0.602
<b>6907</b>	0.6695	0.6298	0.5242	0.537
<b>6908</b>	0.3105	0.2911	0.2429	0.496
<b>6909</b>	0.0878	0.0824	0.0693	0.504
<b>7100</b>	0.0146	0.0136	0.0110	0.530
<b>7101</b>	0.0184	0.0172	0.0143	0.437
<b>7103</b>	0.8369	0.7765	0.6287	0.470
<b>7104</b>	0.0204	0.0191	0.0158	0.497
<b>7105</b>	0.0140	0.0132	0.0109	0.506
<b>7106</b>	0.2410	0.2267	0.1868	0.564
<b>7107</b>	0.3598	0.3376	0.2750	0.559
<b>7108</b>	0.2563	0.2415	0.1980	0.602
<b>7109</b>	0.0774	0.0726	0.0607	0.494
<b>7110</b>	0.3693	0.3452	0.2902	0.435
<b>7111</b>	0.2574	0.2384	0.1917	0.476
<b>7112</b>	0.5450	0.5139	0.4356	0.516
<b>7113</b>	0.3382	0.3177	0.2631	0.533
<b>7114</b>	0.7048	0.6648	0.5483	0.585
<b>7115</b>	0.5672	0.5357	0.4483	0.560
<b>7116</b>	0.4462	0.4175	0.3452	0.489
<b>7117</b>	0.8490	0.7991	0.6728	0.498
<b>7118</b>	1.3691	1.2806	1.0646	0.481
<b>7119</b>	1.4079	1.3146	1.0812	0.476
<b>7120</b>	4.2400	3.9500	3.2151	0.489
<b>7121</b>	5.6360	5.2264	4.4413	0.338
<b>7122</b>	0.3025	0.2867	0.2455	0.506
<b>7200</b>	1.8404	1.7007	1.3626	0.464
<b>7201</b>	1.4176	1.3157	1.0526	0.500
<b>7202</b>	0.0185	0.0173	0.0142	0.516
<b>7203</b>	0.0812	0.0773	0.0667	0.575

<del>((Class</del>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<del>7204</del>	0.0000	0.0000	0.0000	0.500
<del>7205</del>	0.0000	0.0000	0.0000	0.500
<del>7301</del>	0.5655	0.5357	0.4685	0.444
<del>7302</del>	0.6549	0.6196	0.5384	0.447
<del>7307</del>	0.4114	0.3872	0.3229	0.538
<del>7308</del>	0.2174	0.2063	0.1749	0.574
<del>7309</del>	0.2041	0.1937	0.1643	0.580
<del>7400</del>	2.1165	1.9559	1.5669	0.464

**~~Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed~~**

<del>Class</del>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Primary Ratio</b>
<del>540</del>	0.0130	0.0121	0.0102	0.464
<del>541</del>	0.0065	0.0061	0.0051	0.426
<del>550</del>	0.0258	0.0239	0.0204	0.338
<del>551</del>	0.0091	0.0085	0.0072	0.402))

<u>Class</u>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>Primary Ratio</b>
<u>101</u>	0.7333	0.6414	0.5407	0.401
<u>103</u>	0.9153	0.8163	0.7019	0.415
<u>104</u>	0.6145	0.5355	0.4484	0.420
<u>105</u>	0.7852	0.6928	0.5818	0.481
<u>106</u>	2.0555	1.8460	1.5991	0.415
<u>107</u>	0.6483	0.5688	0.4799	0.423
<u>108</u>	0.6145	0.5355	0.4484	0.420
<u>112</u>	0.5619	0.4957	0.4204	0.420
<u>201</u>	1.5387	1.3384	1.1315	0.351
<u>202</u>	1.2789	1.1146	0.9341	0.413
<u>210</u>	0.6925	0.6069	0.5147	0.387
<u>212</u>	0.6877	0.6055	0.5120	0.424
<u>214</u>	1.0860	0.9419	0.7861	0.407
<u>217</u>	0.7191	0.6310	0.5306	0.439
<u>219</u>	0.5315	0.4649	0.3883	0.460
<u>301</u>	0.7365	0.6531	0.5537	0.456
<u>302</u>	1.3453	1.1765	0.9902	0.405
<u>303</u>	1.2698	1.1121	0.9350	0.418
<u>306</u>	0.5597	0.4883	0.4080	0.442
<u>307</u>	0.5886	0.5166	0.4325	0.470
<u>308</u>	0.4717	0.4196	0.3549	0.498
<u>403</u>	1.0815	0.9465	0.7916	0.450
<u>502</u>	0.6106	0.5331	0.4435	0.462
<u>504</u>	1.2805	1.1317	0.9657	0.398
<u>507</u>	2.0453	1.8278	1.5794	0.398
<u>508</u>	1.0918	0.9473	0.7952	0.368
<u>509</u>	0.6212	0.5390	0.4551	0.353
<u>510</u>	1.6222	1.4403	1.2328	0.409

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>511</u>	<u>1.0116</u>	<u>0.8828</u>	<u>0.7341</u>	<u>0.470</u>
<u>512</u>	<u>0.8457</u>	<u>0.7470</u>	<u>0.6334</u>	<u>0.441</u>
<u>513</u>	<u>0.6717</u>	<u>0.5884</u>	<u>0.4924</u>	<u>0.450</u>
<u>514</u>	<u>0.9857</u>	<u>0.8657</u>	<u>0.7236</u>	<u>0.482</u>
<u>516</u>	<u>1.0326</u>	<u>0.9059</u>	<u>0.7616</u>	<u>0.438</u>
<u>517</u>	<u>1.1617</u>	<u>1.0253</u>	<u>0.8767</u>	<u>0.374</u>
<u>518</u>	<u>0.8724</u>	<u>0.7620</u>	<u>0.6431</u>	<u>0.399</u>
<u>519</u>	<u>1.2490</u>	<u>1.0923</u>	<u>0.9198</u>	<u>0.405</u>
<u>521</u>	<u>0.5227</u>	<u>0.4628</u>	<u>0.3931</u>	<u>0.438</u>
<u>601</u>	<u>0.3764</u>	<u>0.3273</u>	<u>0.2717</u>	<u>0.460</u>
<u>602</u>	<u>0.5093</u>	<u>0.4378</u>	<u>0.3617</u>	<u>0.402</u>
<u>603</u>	<u>0.5910</u>	<u>0.5160</u>	<u>0.4358</u>	<u>0.382</u>
<u>604</u>	<u>0.7968</u>	<u>0.7055</u>	<u>0.5971</u>	<u>0.463</u>
<u>606</u>	<u>0.4629</u>	<u>0.4028</u>	<u>0.3286</u>	<u>0.544</u>
<u>607</u>	<u>0.6142</u>	<u>0.5342</u>	<u>0.4385</u>	<u>0.501</u>
<u>608</u>	<u>0.3036</u>	<u>0.2634</u>	<u>0.2175</u>	<u>0.469</u>
<u>701</u>	<u>0.9427</u>	<u>0.8201</u>	<u>0.6932</u>	<u>0.351</u>
<u>803</u>	<u>0.4940</u>	<u>0.4295</u>	<u>0.3535</u>	<u>0.497</u>
<u>901</u>	<u>0.8724</u>	<u>0.7620</u>	<u>0.6431</u>	<u>0.399</u>
<u>1002</u>	<u>0.6018</u>	<u>0.5267</u>	<u>0.4418</u>	<u>0.437</u>
<u>1003</u>	<u>0.4331</u>	<u>0.3805</u>	<u>0.3191</u>	<u>0.463</u>
<u>1004</u>	<u>0.3464</u>	<u>0.2996</u>	<u>0.2477</u>	<u>0.438</u>
<u>1005</u>	<u>6.6130</u>	<u>5.7458</u>	<u>4.7845</u>	<u>0.410</u>
<u>1006</u>	<u>0.1937</u>	<u>0.1684</u>	<u>0.1378</u>	<u>0.526</u>
<u>1007</u>	<u>0.2539</u>	<u>0.2229</u>	<u>0.1861</u>	<u>0.480</u>
<u>1101</u>	<u>0.9133</u>	<u>0.7955</u>	<u>0.6538</u>	<u>0.506</u>
<u>1102</u>	<u>1.1601</u>	<u>1.0102</u>	<u>0.8467</u>	<u>0.400</u>
<u>1103</u>	<u>0.8617</u>	<u>0.7481</u>	<u>0.6131</u>	<u>0.497</u>
<u>1104</u>	<u>0.4912</u>	<u>0.4341</u>	<u>0.3653</u>	<u>0.492</u>
<u>1105</u>	<u>0.5880</u>	<u>0.5129</u>	<u>0.4245</u>	<u>0.486</u>
<u>1106</u>	<u>0.3362</u>	<u>0.2967</u>	<u>0.2463</u>	<u>0.550</u>
<u>1108</u>	<u>0.4261</u>	<u>0.3762</u>	<u>0.3151</u>	<u>0.498</u>
<u>1109</u>	<u>1.5210</u>	<u>1.3325</u>	<u>1.1180</u>	<u>0.428</u>
<u>1301</u>	<u>0.4946</u>	<u>0.4335</u>	<u>0.3634</u>	<u>0.445</u>
<u>1303</u>	<u>0.3336</u>	<u>0.2876</u>	<u>0.2327</u>	<u>0.527</u>
<u>1304</u>	<u>0.0143</u>	<u>0.0125</u>	<u>0.0104</u>	<u>0.478</u>
<u>1305</u>	<u>0.3630</u>	<u>0.3160</u>	<u>0.2618</u>	<u>0.458</u>
<u>1401</u>	<u>0.2842</u>	<u>0.2536</u>	<u>0.2147</u>	<u>0.501</u>
<u>1404</u>	<u>0.6867</u>	<u>0.6063</u>	<u>0.5047</u>	<u>0.522</u>
<u>1405</u>	<u>0.6258</u>	<u>0.5468</u>	<u>0.4506</u>	<u>0.520</u>
<u>1407</u>	<u>0.5391</u>	<u>0.4719</u>	<u>0.3905</u>	<u>0.503</u>
<u>1501</u>	<u>0.6902</u>	<u>0.5981</u>	<u>0.4894</u>	<u>0.497</u>
<u>1507</u>	<u>0.3732</u>	<u>0.3277</u>	<u>0.2715</u>	<u>0.524</u>
<u>1701</u>	<u>0.6082</u>	<u>0.5356</u>	<u>0.4540</u>	<u>0.408</u>
<u>1702</u>	<u>0.8486</u>	<u>0.7362</u>	<u>0.6255</u>	<u>0.309</u>
<u>1703</u>	<u>0.6770</u>	<u>0.5877</u>	<u>0.4909</u>	<u>0.400</u>
<u>1704</u>	<u>0.6082</u>	<u>0.5356</u>	<u>0.4540</u>	<u>0.408</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>1801</u>	<u>0.4116</u>	<u>0.3587</u>	<u>0.3004</u>	<u>0.413</u>
<u>1802</u>	<u>0.6586</u>	<u>0.5739</u>	<u>0.4807</u>	<u>0.413</u>
<u>2002</u>	<u>0.5909</u>	<u>0.5186</u>	<u>0.4336</u>	<u>0.473</u>
<u>2004</u>	<u>0.5056</u>	<u>0.4452</u>	<u>0.3689</u>	<u>0.557</u>
<u>2007</u>	<u>0.5327</u>	<u>0.4727</u>	<u>0.4032</u>	<u>0.428</u>
<u>2008</u>	<u>0.2106</u>	<u>0.1859</u>	<u>0.1552</u>	<u>0.502</u>
<u>2009</u>	<u>0.3263</u>	<u>0.2900</u>	<u>0.2449</u>	<u>0.511</u>
<u>2101</u>	<u>0.5288</u>	<u>0.4682</u>	<u>0.3946</u>	<u>0.481</u>
<u>2102</u>	<u>0.5797</u>	<u>0.5130</u>	<u>0.4311</u>	<u>0.493</u>
<u>2103</u>	<u>1.3986</u>	<u>1.2100</u>	<u>0.9730</u>	<u>0.567</u>
<u>2104</u>	<u>0.3250</u>	<u>0.2943</u>	<u>0.2520</u>	<u>0.559</u>
<u>2105</u>	<u>0.6154</u>	<u>0.5355</u>	<u>0.4390</u>	<u>0.520</u>
<u>2106</u>	<u>0.4628</u>	<u>0.4095</u>	<u>0.3432</u>	<u>0.513</u>
<u>2201</u>	<u>0.2972</u>	<u>0.2667</u>	<u>0.2278</u>	<u>0.491</u>
<u>2202</u>	<u>0.5796</u>	<u>0.5080</u>	<u>0.4222</u>	<u>0.493</u>
<u>2203</u>	<u>0.4401</u>	<u>0.3897</u>	<u>0.3257</u>	<u>0.541</u>
<u>2204</u>	<u>0.2972</u>	<u>0.2667</u>	<u>0.2278</u>	<u>0.491</u>
<u>2401</u>	<u>0.3494</u>	<u>0.3075</u>	<u>0.2597</u>	<u>0.439</u>
<u>2903</u>	<u>0.5178</u>	<u>0.4605</u>	<u>0.3888</u>	<u>0.506</u>
<u>2904</u>	<u>0.4917</u>	<u>0.4359</u>	<u>0.3747</u>	<u>0.391</u>
<u>2905</u>	<u>0.4611</u>	<u>0.4090</u>	<u>0.3437</u>	<u>0.520</u>
<u>2906</u>	<u>0.4576</u>	<u>0.4086</u>	<u>0.3510</u>	<u>0.443</u>
<u>2907</u>	<u>0.3709</u>	<u>0.3291</u>	<u>0.2755</u>	<u>0.550</u>
<u>2908</u>	<u>0.6598</u>	<u>0.5871</u>	<u>0.4969</u>	<u>0.508</u>
<u>2909</u>	<u>0.3617</u>	<u>0.3238</u>	<u>0.2771</u>	<u>0.467</u>
<u>3101</u>	<u>0.5876</u>	<u>0.5169</u>	<u>0.4333</u>	<u>0.481</u>
<u>3102</u>	<u>0.2263</u>	<u>0.1980</u>	<u>0.1650</u>	<u>0.471</u>
<u>3103</u>	<u>0.2738</u>	<u>0.2422</u>	<u>0.2063</u>	<u>0.417</u>
<u>3104</u>	<u>0.6366</u>	<u>0.5639</u>	<u>0.4719</u>	<u>0.531</u>
<u>3105</u>	<u>0.7116</u>	<u>0.6367</u>	<u>0.5460</u>	<u>0.463</u>
<u>3303</u>	<u>0.3278</u>	<u>0.2882</u>	<u>0.2397</u>	<u>0.511</u>
<u>3304</u>	<u>0.6121</u>	<u>0.5448</u>	<u>0.4615</u>	<u>0.489</u>
<u>3309</u>	<u>0.3292</u>	<u>0.2886</u>	<u>0.2398</u>	<u>0.498</u>
<u>3402</u>	<u>0.3633</u>	<u>0.3211</u>	<u>0.2697</u>	<u>0.500</u>
<u>3403</u>	<u>0.1137</u>	<u>0.1000</u>	<u>0.0837</u>	<u>0.493</u>
<u>3404</u>	<u>0.4530</u>	<u>0.3986</u>	<u>0.3333</u>	<u>0.493</u>
<u>3405</u>	<u>0.2181</u>	<u>0.1926</u>	<u>0.1617</u>	<u>0.501</u>
<u>3406</u>	<u>0.2207</u>	<u>0.1947</u>	<u>0.1626</u>	<u>0.516</u>
<u>3407</u>	<u>0.6797</u>	<u>0.5923</u>	<u>0.4931</u>	<u>0.440</u>
<u>3408</u>	<u>0.2299</u>	<u>0.1998</u>	<u>0.1630</u>	<u>0.531</u>
<u>3409</u>	<u>0.1468</u>	<u>0.1298</u>	<u>0.1081</u>	<u>0.538</u>
<u>3410</u>	<u>0.1468</u>	<u>0.1298</u>	<u>0.1081</u>	<u>0.538</u>
<u>3411</u>	<u>0.3961</u>	<u>0.3461</u>	<u>0.2876</u>	<u>0.475</u>
<u>3412</u>	<u>0.5536</u>	<u>0.4824</u>	<u>0.4045</u>	<u>0.408</u>
<u>3414</u>	<u>0.6939</u>	<u>0.6042</u>	<u>0.4976</u>	<u>0.495</u>
<u>3415</u>	<u>1.2034</u>	<u>1.0492</u>	<u>0.8585</u>	<u>0.530</u>
<u>3501</u>	<u>0.3384</u>	<u>0.3028</u>	<u>0.2596</u>	<u>0.463</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>3503</u>	<u>0.2775</u>	<u>0.2444</u>	<u>0.2039</u>	<u>0.513</u>
<u>3506</u>	<u>0.6186</u>	<u>0.5413</u>	<u>0.4558</u>	<u>0.417</u>
<u>3509</u>	<u>0.4120</u>	<u>0.3596</u>	<u>0.2940</u>	<u>0.549</u>
<u>3510</u>	<u>0.3266</u>	<u>0.2915</u>	<u>0.2470</u>	<u>0.517</u>
<u>3511</u>	<u>0.7117</u>	<u>0.6316</u>	<u>0.5331</u>	<u>0.490</u>
<u>3512</u>	<u>0.3320</u>	<u>0.2946</u>	<u>0.2471</u>	<u>0.528</u>
<u>3513</u>	<u>0.3972</u>	<u>0.3489</u>	<u>0.2909</u>	<u>0.491</u>
<u>3602</u>	<u>0.0837</u>	<u>0.0739</u>	<u>0.0620</u>	<u>0.501</u>
<u>3603</u>	<u>0.3840</u>	<u>0.3407</u>	<u>0.2884</u>	<u>0.476</u>
<u>3604</u>	<u>0.6974</u>	<u>0.6169</u>	<u>0.5207</u>	<u>0.474</u>
<u>3605</u>	<u>0.3633</u>	<u>0.3211</u>	<u>0.2697</u>	<u>0.500</u>
<u>3701</u>	<u>0.2263</u>	<u>0.1980</u>	<u>0.1650</u>	<u>0.471</u>
<u>3702</u>	<u>0.3036</u>	<u>0.2676</u>	<u>0.2227</u>	<u>0.531</u>
<u>3708</u>	<u>0.5049</u>	<u>0.4474</u>	<u>0.3805</u>	<u>0.443</u>
<u>3802</u>	<u>0.1605</u>	<u>0.1428</u>	<u>0.1213</u>	<u>0.485</u>
<u>3808</u>	<u>0.3234</u>	<u>0.2857</u>	<u>0.2406</u>	<u>0.474</u>
<u>3901</u>	<u>0.1196</u>	<u>0.1069</u>	<u>0.0898</u>	<u>0.573</u>
<u>3902</u>	<u>0.4631</u>	<u>0.4097</u>	<u>0.3407</u>	<u>0.553</u>
<u>3903</u>	<u>0.7207</u>	<u>0.6374</u>	<u>0.5302</u>	<u>0.553</u>
<u>3905</u>	<u>0.1195</u>	<u>0.1070</u>	<u>0.0905</u>	<u>0.551</u>
<u>3906</u>	<u>0.4361</u>	<u>0.3883</u>	<u>0.3271</u>	<u>0.532</u>
<u>3909</u>	<u>0.2258</u>	<u>0.2002</u>	<u>0.1668</u>	<u>0.563</u>
<u>4101</u>	<u>0.1730</u>	<u>0.1532</u>	<u>0.1284</u>	<u>0.526</u>
<u>4103</u>	<u>0.4884</u>	<u>0.4333</u>	<u>0.3655</u>	<u>0.490</u>
<u>4107</u>	<u>0.1539</u>	<u>0.1346</u>	<u>0.1120</u>	<u>0.481</u>
<u>4108</u>	<u>0.1673</u>	<u>0.1472</u>	<u>0.1215</u>	<u>0.545</u>
<u>4109</u>	<u>0.1852</u>	<u>0.1646</u>	<u>0.1391</u>	<u>0.501</u>
<u>4201</u>	<u>0.6672</u>	<u>0.5725</u>	<u>0.4673</u>	<u>0.443</u>
<u>4301</u>	<u>0.7551</u>	<u>0.6725</u>	<u>0.5662</u>	<u>0.527</u>
<u>4302</u>	<u>0.6262</u>	<u>0.5518</u>	<u>0.4636</u>	<u>0.472</u>
<u>4304</u>	<u>0.7595</u>	<u>0.6851</u>	<u>0.5901</u>	<u>0.478</u>
<u>4305</u>	<u>0.9929</u>	<u>0.8592</u>	<u>0.7012</u>	<u>0.497</u>
<u>4401</u>	<u>0.3278</u>	<u>0.2882</u>	<u>0.2397</u>	<u>0.511</u>
<u>4402</u>	<u>0.5202</u>	<u>0.4545</u>	<u>0.3765</u>	<u>0.496</u>
<u>4404</u>	<u>0.4413</u>	<u>0.3918</u>	<u>0.3332</u>	<u>0.450</u>
<u>4501</u>	<u>0.1480</u>	<u>0.1296</u>	<u>0.1062</u>	<u>0.568</u>
<u>4502</u>	<u>0.0490</u>	<u>0.0432</u>	<u>0.0363</u>	<u>0.465</u>
<u>4504</u>	<u>0.1065</u>	<u>0.0953</u>	<u>0.0805</u>	<u>0.564</u>
<u>4802</u>	<u>0.4171</u>	<u>0.3712</u>	<u>0.3144</u>	<u>0.488</u>
<u>4803</u>	<u>0.4217</u>	<u>0.3768</u>	<u>0.3179</u>	<u>0.549</u>
<u>4804</u>	<u>0.4656</u>	<u>0.4166</u>	<u>0.3547</u>	<u>0.496</u>
<u>4805</u>	<u>0.3239</u>	<u>0.2901</u>	<u>0.2459</u>	<u>0.543</u>
<u>4806</u>	<u>0.1345</u>	<u>0.1191</u>	<u>0.0984</u>	<u>0.593</u>
<u>4808</u>	<u>0.4504</u>	<u>0.3995</u>	<u>0.3386</u>	<u>0.460</u>
<u>4809</u>	<u>0.2285</u>	<u>0.2029</u>	<u>0.1708</u>	<u>0.523</u>
<u>4810</u>	<u>0.2264</u>	<u>0.2013</u>	<u>0.1692</u>	<u>0.523</u>
<u>4811</u>	<u>0.4294</u>	<u>0.3866</u>	<u>0.3315</u>	<u>0.503</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>4812</u>	<u>0.3570</u>	<u>0.3168</u>	<u>0.2689</u>	<u>0.470</u>
<u>4813</u>	<u>0.2843</u>	<u>0.2550</u>	<u>0.2155</u>	<u>0.561</u>
<u>4814</u>	<u>0.1099</u>	<u>0.0999</u>	<u>0.0859</u>	<u>0.548</u>
<u>4815</u>	<u>0.2066</u>	<u>0.1884</u>	<u>0.1622</u>	<u>0.561</u>
<u>4816</u>	<u>0.3081</u>	<u>0.2807</u>	<u>0.2438</u>	<u>0.504</u>
<u>4900</u>	<u>0.1010</u>	<u>0.0888</u>	<u>0.0750</u>	<u>0.439</u>
<u>4901</u>	<u>0.0336</u>	<u>0.0293</u>	<u>0.0243</u>	<u>0.469</u>
<u>4902</u>	<u>0.0643</u>	<u>0.0562</u>	<u>0.0464</u>	<u>0.507</u>
<u>4903</u>	<u>0.1647</u>	<u>0.1431</u>	<u>0.1170</u>	<u>0.525</u>
<u>4904</u>	<u>0.0120</u>	<u>0.0106</u>	<u>0.0088</u>	<u>0.547</u>
<u>4905</u>	<u>0.3448</u>	<u>0.3072</u>	<u>0.2587</u>	<u>0.534</u>
<u>4906</u>	<u>0.0967</u>	<u>0.0841</u>	<u>0.0687</u>	<u>0.535</u>
<u>4907</u>	<u>0.0454</u>	<u>0.0408</u>	<u>0.0347</u>	<u>0.594</u>
<u>4908</u>	<u>0.0838</u>	<u>0.0756</u>	<u>0.0647</u>	<u>0.598</u>
<u>4909</u>	<u>0.0335</u>	<u>0.0303</u>	<u>0.0258</u>	<u>0.598</u>
<u>4910</u>	<u>0.4111</u>	<u>0.3606</u>	<u>0.3007</u>	<u>0.480</u>
<u>4911</u>	<u>0.0526</u>	<u>0.0464</u>	<u>0.0393</u>	<u>0.439</u>
<u>5001</u>	<u>5.9546</u>	<u>5.2490</u>	<u>4.5130</u>	<u>0.333</u>
<u>5002</u>	<u>0.4903</u>	<u>0.4276</u>	<u>0.3518</u>	<u>0.514</u>
<u>5003</u>	<u>1.9782</u>	<u>1.7291</u>	<u>1.4584</u>	<u>0.379</u>
<u>5004</u>	<u>0.8698</u>	<u>0.7863</u>	<u>0.6874</u>	<u>0.392</u>
<u>5005</u>	<u>0.7939</u>	<u>0.6941</u>	<u>0.5861</u>	<u>0.385</u>
<u>5006</u>	<u>0.9455</u>	<u>0.8243</u>	<u>0.6943</u>	<u>0.375</u>
<u>5101</u>	<u>0.7206</u>	<u>0.6267</u>	<u>0.5206</u>	<u>0.438</u>
<u>5103</u>	<u>0.7483</u>	<u>0.6614</u>	<u>0.5550</u>	<u>0.505</u>
<u>5106</u>	<u>0.7483</u>	<u>0.6614</u>	<u>0.5550</u>	<u>0.505</u>
<u>5108</u>	<u>0.7342</u>	<u>0.6353</u>	<u>0.5152</u>	<u>0.532</u>
<u>5109</u>	<u>0.3750</u>	<u>0.3273</u>	<u>0.2720</u>	<u>0.481</u>
<u>5201</u>	<u>0.2481</u>	<u>0.2190</u>	<u>0.1824</u>	<u>0.546</u>
<u>5204</u>	<u>0.9048</u>	<u>0.7776</u>	<u>0.6343</u>	<u>0.449</u>
<u>5206</u>	<u>0.3154</u>	<u>0.2789</u>	<u>0.2379</u>	<u>0.411</u>
<u>5207</u>	<u>0.1370</u>	<u>0.1220</u>	<u>0.1025</u>	<u>0.546</u>
<u>5208</u>	<u>0.4894</u>	<u>0.4317</u>	<u>0.3644</u>	<u>0.469</u>
<u>5209</u>	<u>0.4982</u>	<u>0.4389</u>	<u>0.3690</u>	<u>0.475</u>
<u>5300</u>	<u>0.0731</u>	<u>0.0642</u>	<u>0.0534</u>	<u>0.507</u>
<u>5301</u>	<u>0.0227</u>	<u>0.0201</u>	<u>0.0167</u>	<u>0.502</u>
<u>5302</u>	<u>0.0052</u>	<u>0.0045</u>	<u>0.0039</u>	<u>0.464</u>
<u>5305</u>	<u>0.0429</u>	<u>0.0375</u>	<u>0.0307</u>	<u>0.551</u>
<u>5306</u>	<u>0.0335</u>	<u>0.0295</u>	<u>0.0244</u>	<u>0.549</u>
<u>5307</u>	<u>0.6044</u>	<u>0.5248</u>	<u>0.4310</u>	<u>0.487</u>
<u>5308</u>	<u>0.0760</u>	<u>0.0676</u>	<u>0.0573</u>	<u>0.520</u>
<u>6103</u>	<u>0.0838</u>	<u>0.0749</u>	<u>0.0628</u>	<u>0.580</u>
<u>6104</u>	<u>0.3233</u>	<u>0.2849</u>	<u>0.2371</u>	<u>0.525</u>
<u>6105</u>	<u>0.4547</u>	<u>0.3950</u>	<u>0.3248</u>	<u>0.493</u>
<u>6107</u>	<u>0.1543</u>	<u>0.1381</u>	<u>0.1157</u>	<u>0.640</u>
<u>6108</u>	<u>0.2260</u>	<u>0.2018</u>	<u>0.1700</u>	<u>0.582</u>
<u>6109</u>	<u>0.1033</u>	<u>0.0900</u>	<u>0.0742</u>	<u>0.498</u>



<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>6110</u>	<u>0.3484</u>	<u>0.3029</u>	<u>0.2483</u>	<u>0.516</u>
<u>6120</u>	<u>0.2704</u>	<u>0.2355</u>	<u>0.1941</u>	<u>0.504</u>
<u>6121</u>	<u>0.3900</u>	<u>0.3389</u>	<u>0.2777</u>	<u>0.508</u>
<u>6201</u>	<u>0.4618</u>	<u>0.4022</u>	<u>0.3298</u>	<u>0.523</u>
<u>6202</u>	<u>0.7344</u>	<u>0.6458</u>	<u>0.5372</u>	<u>0.512</u>
<u>6203</u>	<u>0.0889</u>	<u>0.0804</u>	<u>0.0686</u>	<u>0.606</u>
<u>6204</u>	<u>0.1052</u>	<u>0.0941</u>	<u>0.0800</u>	<u>0.516</u>
<u>6205</u>	<u>0.1613</u>	<u>0.1422</u>	<u>0.1184</u>	<u>0.530</u>
<u>6206</u>	<u>0.1814</u>	<u>0.1606</u>	<u>0.1340</u>	<u>0.550</u>
<u>6207</u>	<u>0.7886</u>	<u>0.6993</u>	<u>0.5914</u>	<u>0.459</u>
<u>6208</u>	<u>0.2000</u>	<u>0.1804</u>	<u>0.1534</u>	<u>0.574</u>
<u>6209</u>	<u>0.2530</u>	<u>0.2274</u>	<u>0.1938</u>	<u>0.534</u>
<u>6301</u>	<u>0.1147</u>	<u>0.1008</u>	<u>0.0848</u>	<u>0.426</u>
<u>6303</u>	<u>0.0399</u>	<u>0.0351</u>	<u>0.0293</u>	<u>0.494</u>
<u>6305</u>	<u>0.0945</u>	<u>0.0838</u>	<u>0.0698</u>	<u>0.575</u>
<u>6306</u>	<u>0.3461</u>	<u>0.3032</u>	<u>0.2495</u>	<u>0.549</u>
<u>6308</u>	<u>0.0681</u>	<u>0.0596</u>	<u>0.0491</u>	<u>0.513</u>
<u>6309</u>	<u>0.2004</u>	<u>0.1770</u>	<u>0.1472</u>	<u>0.541</u>
<u>6402</u>	<u>0.2249</u>	<u>0.1998</u>	<u>0.1669</u>	<u>0.573</u>
<u>6403</u>	<u>0.1421</u>	<u>0.1251</u>	<u>0.1030</u>	<u>0.572</u>
<u>6404</u>	<u>0.2896</u>	<u>0.2578</u>	<u>0.2169</u>	<u>0.529</u>
<u>6405</u>	<u>0.5597</u>	<u>0.4890</u>	<u>0.4034</u>	<u>0.510</u>
<u>6406</u>	<u>0.1472</u>	<u>0.1295</u>	<u>0.1067</u>	<u>0.572</u>
<u>6407</u>	<u>0.2397</u>	<u>0.2118</u>	<u>0.1769</u>	<u>0.527</u>
<u>6408</u>	<u>0.5435</u>	<u>0.4810</u>	<u>0.4056</u>	<u>0.480</u>
<u>6409</u>	<u>0.5946</u>	<u>0.5214</u>	<u>0.4369</u>	<u>0.451</u>
<u>6410</u>	<u>0.2631</u>	<u>0.2307</u>	<u>0.1909</u>	<u>0.526</u>
<u>6411</u>	<u>0.0393</u>	<u>0.0353</u>	<u>0.0302</u>	<u>0.514</u>
<u>6501</u>	<u>0.0873</u>	<u>0.0757</u>	<u>0.0614</u>	<u>0.553</u>
<u>6502</u>	<u>0.0173</u>	<u>0.0152</u>	<u>0.0129</u>	<u>0.490</u>
<u>6503</u>	<u>0.0731</u>	<u>0.0627</u>	<u>0.0505</u>	<u>0.515</u>
<u>6504</u>	<u>0.2365</u>	<u>0.2112</u>	<u>0.1773</u>	<u>0.581</u>
<u>6505</u>	<u>0.1334</u>	<u>0.1193</u>	<u>0.0998</u>	<u>0.626</u>
<u>6506</u>	<u>0.1060</u>	<u>0.0931</u>	<u>0.0771</u>	<u>0.528</u>
<u>6509</u>	<u>0.2073</u>	<u>0.1849</u>	<u>0.1558</u>	<u>0.563</u>
<u>6510</u>	<u>0.3551</u>	<u>0.3069</u>	<u>0.2540</u>	<u>0.413</u>
<u>6511</u>	<u>0.2390</u>	<u>0.2106</u>	<u>0.1741</u>	<u>0.561</u>
<u>6512</u>	<u>0.0830</u>	<u>0.0729</u>	<u>0.0608</u>	<u>0.472</u>
<u>6601</u>	<u>0.1799</u>	<u>0.1587</u>	<u>0.1325</u>	<u>0.502</u>
<u>6602</u>	<u>0.5469</u>	<u>0.4865</u>	<u>0.4117</u>	<u>0.481</u>
<u>6603</u>	<u>0.2539</u>	<u>0.2251</u>	<u>0.1887</u>	<u>0.539</u>
<u>6604</u>	<u>0.0550</u>	<u>0.0486</u>	<u>0.0408</u>	<u>0.524</u>
<u>6605</u>	<u>0.2554</u>	<u>0.2234</u>	<u>0.1836</u>	<u>0.561</u>
<u>6607</u>	<u>0.1078</u>	<u>0.0957</u>	<u>0.0800</u>	<u>0.553</u>
<u>6608</u>	<u>0.3724</u>	<u>0.3213</u>	<u>0.2682</u>	<u>0.370</u>
<u>6620</u>	<u>3.1804</u>	<u>2.7312</u>	<u>2.1789</u>	<u>0.578</u>
<u>6704</u>	<u>0.1142</u>	<u>0.1002</u>	<u>0.0824</u>	<u>0.564</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>6705</u>	<u>0.7315</u>	<u>0.6593</u>	<u>0.5597</u>	<u>0.578</u>
<u>6706</u>	<u>0.2093</u>	<u>0.1881</u>	<u>0.1610</u>	<u>0.511</u>
<u>6707</u>	<u>8.4102</u>	<u>7.5223</u>	<u>6.2413</u>	<u>0.671</u>
<u>6708</u>	<u>7.9882</u>	<u>7.2913</u>	<u>6.3822</u>	<u>0.474</u>
<u>6709</u>	<u>0.2337</u>	<u>0.2061</u>	<u>0.1710</u>	<u>0.549</u>
<u>6801</u>	<u>0.5667</u>	<u>0.4811</u>	<u>0.3804</u>	<u>0.527</u>
<u>6802</u>	<u>0.8584</u>	<u>0.7449</u>	<u>0.6059</u>	<u>0.531</u>
<u>6803</u>	<u>0.4434</u>	<u>0.3807</u>	<u>0.3131</u>	<u>0.413</u>
<u>6804</u>	<u>0.2353</u>	<u>0.2066</u>	<u>0.1709</u>	<u>0.541</u>
<u>6809</u>	<u>2.8632</u>	<u>2.5546</u>	<u>2.1642</u>	<u>0.524</u>
<u>6901</u>	<u>0.0196</u>	<u>0.0200</u>	<u>0.0194</u>	<u>0.813</u>
<u>6902</u>	<u>0.6483</u>	<u>0.5706</u>	<u>0.4825</u>	<u>0.415</u>
<u>6903</u>	<u>3.0259</u>	<u>2.6602</u>	<u>2.2921</u>	<u>0.310</u>
<u>6904</u>	<u>1.1712</u>	<u>1.0068</u>	<u>0.8300</u>	<u>0.405</u>
<u>6905</u>	<u>0.8792</u>	<u>0.7494</u>	<u>0.6125</u>	<u>0.410</u>
<u>6906</u>	<u>0.2888</u>	<u>0.2811</u>	<u>0.2591</u>	<u>0.578</u>
<u>6907</u>	<u>0.7100</u>	<u>0.6262</u>	<u>0.5207</u>	<u>0.539</u>
<u>6908</u>	<u>0.3660</u>	<u>0.3221</u>	<u>0.2685</u>	<u>0.510</u>
<u>6909</u>	<u>0.0962</u>	<u>0.0849</u>	<u>0.0714</u>	<u>0.499</u>
<u>7100</u>	<u>0.0150</u>	<u>0.0130</u>	<u>0.0106</u>	<u>0.531</u>
<u>7101</u>	<u>0.0203</u>	<u>0.0177</u>	<u>0.0148</u>	<u>0.423</u>
<u>7103</u>	<u>0.9373</u>	<u>0.8098</u>	<u>0.6648</u>	<u>0.454</u>
<u>7104</u>	<u>0.0227</u>	<u>0.0199</u>	<u>0.0164</u>	<u>0.498</u>
<u>7105</u>	<u>0.0155</u>	<u>0.0136</u>	<u>0.0113</u>	<u>0.502</u>
<u>7106</u>	<u>0.2293</u>	<u>0.2025</u>	<u>0.1679</u>	<u>0.548</u>
<u>7107</u>	<u>0.3910</u>	<u>0.3405</u>	<u>0.2774</u>	<u>0.554</u>
<u>7108</u>	<u>0.3026</u>	<u>0.2656</u>	<u>0.2166</u>	<u>0.605</u>
<u>7109</u>	<u>0.0899</u>	<u>0.0788</u>	<u>0.0654</u>	<u>0.506</u>
<u>7110</u>	<u>0.4115</u>	<u>0.3619</u>	<u>0.3036</u>	<u>0.454</u>
<u>7111</u>	<u>0.2982</u>	<u>0.2548</u>	<u>0.2055</u>	<u>0.478</u>
<u>7112</u>	<u>0.6178</u>	<u>0.5515</u>	<u>0.4660</u>	<u>0.523</u>
<u>7113</u>	<u>0.4294</u>	<u>0.3761</u>	<u>0.3087</u>	<u>0.553</u>
<u>7114</u>	<u>0.7298</u>	<u>0.6439</u>	<u>0.5308</u>	<u>0.583</u>
<u>7115</u>	<u>0.5980</u>	<u>0.5322</u>	<u>0.4454</u>	<u>0.551</u>
<u>7116</u>	<u>0.5349</u>	<u>0.4683</u>	<u>0.3873</u>	<u>0.501</u>
<u>7117</u>	<u>0.9013</u>	<u>0.7958</u>	<u>0.6656</u>	<u>0.506</u>
<u>7118</u>	<u>1.3247</u>	<u>1.1638</u>	<u>0.9761</u>	<u>0.457</u>
<u>7119</u>	<u>1.6112</u>	<u>1.4007</u>	<u>1.1497</u>	<u>0.492</u>
<u>7120</u>	<u>4.9649</u>	<u>4.2957</u>	<u>3.5059</u>	<u>0.497</u>
<u>7121</u>	<u>5.6128</u>	<u>4.9433</u>	<u>4.2532</u>	<u>0.325</u>
<u>7122</u>	<u>0.3291</u>	<u>0.2950</u>	<u>0.2510</u>	<u>0.507</u>
<u>7200</u>	<u>2.1770</u>	<u>1.8651</u>	<u>1.5115</u>	<u>0.463</u>
<u>7201</u>	<u>1.5670</u>	<u>1.3480</u>	<u>1.0921</u>	<u>0.492</u>
<u>7202</u>	<u>0.0157</u>	<u>0.0138</u>	<u>0.0115</u>	<u>0.489</u>
<u>7203</u>	<u>0.0845</u>	<u>0.0762</u>	<u>0.0653</u>	<u>0.568</u>
<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>7301</u>	<u>0.6152</u>	<u>0.5545</u>	<u>0.4810</u>	<u>0.436</u>
<u>7302</u>	<u>0.7492</u>	<u>0.6758</u>	<u>0.5848</u>	<u>0.451</u>
<u>7307</u>	<u>0.4081</u>	<u>0.3616</u>	<u>0.3021</u>	<u>0.529</u>
<u>7308</u>	<u>0.2507</u>	<u>0.2240</u>	<u>0.1883</u>	<u>0.581</u>
<u>7309</u>	<u>0.1974</u>	<u>0.1769</u>	<u>0.1496</u>	<u>0.570</u>
<u>7400</u>	<u>2.5036</u>	<u>2.1448</u>	<u>1.7382</u>	<u>0.463</u>

**Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed**

<u>Class</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Primary Ratio</u>
<u>540</u>	<u>0.0123</u>	<u>0.0108</u>	<u>0.0091</u>	<u>0.459</u>
<u>541</u>	<u>0.0067</u>	<u>0.0059</u>	<u>0.0050</u>	<u>0.435</u>
<u>550</u>	<u>0.0274</u>	<u>0.0242</u>	<u>0.0209</u>	<u>0.338</u>
<u>551</u>	<u>0.0096</u>	<u>0.0085</u>	<u>0.0072</u>	<u>0.376</u>

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-890 Table IV.**

**Maximum Experience Modifications  
For Firms with No Compensable Accidents:  
Effective January 1, ((2023)) 2024**

<b>Expected Loss Range</b>	<b>Maximum Experience Modification</b>
((1 - 5,356	0.90
5,357 - 6,539	0.89
6,540 - 7,212	0.88
7,213 - 7,885	0.87
7,886 - 8,559	0.86
8,560 - 9,232	0.85
9,233 - 9,905	0.84
9,906 - 10,579	0.83
10,580 - 11,252	0.82
11,253 - 11,951	0.81
11,952 - 12,679	0.80
12,680 - 13,436	0.79
13,437 - 14,221	0.78
14,222 - 15,035	0.77
15,036 - 15,877	0.76
15,878 - 16,749	0.75
16,750 - 17,649	0.74
17,650 - 18,577	0.73
18,578 - 19,534	0.72
19,535 - 20,520	0.71

Expected Loss Range	Maximum Experience Modification
20,521 - 21,535	0.70
21,536 - 22,578	0.69
22,579 - 23,650	0.68
23,651 - 24,751	0.67
24,752 - 25,880	0.66
25,881 - 27,038	0.65
27,039 - 28,775	0.64
28,776 - 31,381	0.63
31,382 - 35,289	0.62
35,290 - 41,152	0.61
41,153 and higher	0.60))
<u>1</u> = <u>5,490</u>	<u>0.90</u>
<u>5,491</u> = <u>6,703</u>	<u>0.89</u>
<u>6,704</u> = <u>7,392</u>	<u>0.88</u>
<u>7,393</u> = <u>8,082</u>	<u>0.87</u>
<u>8,083</u> = <u>8,772</u>	<u>0.86</u>
<u>8,773</u> = <u>9,462</u>	<u>0.85</u>
<u>9,463</u> = <u>10,152</u>	<u>0.84</u>
<u>10,153</u> = <u>10,841</u>	<u>0.83</u>
<u>10,842</u> = <u>11,531</u>	<u>0.82</u>
<u>11,532</u> = <u>12,248</u>	<u>0.81</u>
<u>12,249</u> = <u>12,995</u>	<u>0.80</u>
<u>12,996</u> = <u>13,771</u>	<u>0.79</u>
<u>13,772</u> = <u>14,576</u>	<u>0.78</u>
<u>14,577</u> = <u>15,411</u>	<u>0.77</u>
<u>15,412</u> = <u>16,274</u>	<u>0.76</u>
<u>16,275</u> = <u>17,168</u>	<u>0.75</u>
<u>17,169</u> = <u>18,090</u>	<u>0.74</u>
<u>18,091</u> = <u>19,042</u>	<u>0.73</u>
<u>19,043</u> = <u>20,023</u>	<u>0.72</u>
<u>20,024</u> = <u>21,034</u>	<u>0.71</u>
<u>21,035</u> = <u>22,074</u>	<u>0.70</u>
<u>22,075</u> = <u>23,143</u>	<u>0.69</u>
<u>23,144</u> = <u>24,242</u>	<u>0.68</u>
<u>24,243</u> = <u>25,370</u>	<u>0.67</u>
<u>25,371</u> = <u>26,527</u>	<u>0.66</u>
<u>26,528</u> = <u>27,714</u>	<u>0.65</u>
<u>27,715</u> = <u>29,494</u>	<u>0.64</u>
<u>29,495</u> = <u>32,164</u>	<u>0.63</u>
<u>32,165</u> = <u>36,169</u>	<u>0.62</u>
<u>36,170</u> = <u>42,177</u>	<u>0.61</u>
<u>42,178</u> and higher	<u>0.60</u>

OTS-4945.1

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry.** Industrial insurance accident fund, stay at work and medical aid fund base rates by class of industry shall be as set forth below.

**((Base Rates Effective  
January 1, 2023**

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
101	1.4355	0.0234	0.5240
103	1.5658	0.0251	0.8182
104	1.2396	0.0202	0.4606
105	1.2645	0.0202	0.6855
106	2.9430	0.0466	1.8831
107	1.2170	0.0197	0.4776
108	1.2396	0.0202	0.4606
112	0.9580	0.0154	0.4448
201	3.1875	0.0522	0.9727
202	2.6725	0.0436	0.9114
210	1.3632	0.0221	0.5211
212	1.1705	0.0189	0.5169
214	2.4333	0.0398	0.7488
217	1.4027	0.0227	0.6107
219	0.9948	0.0161	0.4080
301	1.1791	0.0188	0.6610
302	2.7434	0.0446	1.0005
303	2.3240	0.0376	0.9498
306	1.0399	0.0169	0.4191
307	1.0218	0.0165	0.4798
308	0.6698	0.0106	0.4502
403	2.1140	0.0342	0.8931
502	1.1690	0.0190	0.4360
504	2.4599	0.0397	1.0714
507	3.6696	0.0587	1.9822
508	2.2812	0.0374	0.6474
509	1.3855	0.0227	0.3819
510	2.9145	0.0468	1.4344
511	1.7012	0.0275	0.7322
512	1.4801	0.0238	0.7252
513	1.1159	0.0180	0.4893
514	1.4943	0.0239	0.7772
516	1.9538	0.0315	0.8606
517	2.2573	0.0366	0.9251
518	1.6616	0.0270	0.6106
519	2.0796	0.0337	0.8328
521	0.8495	0.0136	0.4286
601	0.7015	0.0114	0.2693
602	1.0776	0.0177	0.2826

((Base Rates Effective  
January 1, 2023

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
603	1.1826	0.0193	0.3902
604	1.3520	0.0217	0.6950
606	0.6786	0.0109	0.3413
607	0.9974	0.0161	0.4308
608	0.5994	0.0098	0.2109
701	2.3587	0.0386	0.7199
803	0.8124	0.0131	0.3627
901	1.6616	0.0270	0.6106
1002	1.1206	0.0182	0.4512
1003	0.8210	0.0132	0.3726
1004	0.6458	0.0105	0.2226
1005	12.4814	0.2032	4.4519
1006	0.3028	0.0049	0.1482
1007	0.4355	0.0070	0.2054
1101	1.5212	0.0246	0.6742
1102	2.4883	0.0406	0.8153
1103	1.4402	0.0233	0.5914
1104	0.7953	0.0127	0.4488
1105	1.0969	0.0177	0.4625
1106	0.4441	0.0070	0.2903
1108	0.5887	0.0093	0.3671
1109	2.7517	0.0446	1.1376
1301	0.9224	0.0149	0.3778
1303	0.5236	0.0085	0.2196
1304	0.0253	0.0004	0.0119
1305	0.6803	0.0110	0.2691
1401	0.3508	0.0055	0.2668
1404	0.9080	0.0144	0.5397
1405	0.9461	0.0152	0.4921
1407	0.8403	0.0135	0.4035
1501	1.1870	0.0193	0.4697
1507	0.5570	0.0089	0.3109
1701	1.1388	0.0184	0.4894
1702	2.0459	0.0337	0.5147
1703	1.3503	0.0221	0.4382
1704	1.1388	0.0184	0.4894
1801	0.7347	0.0120	0.2654
1802	1.1756	0.0191	0.4247
2002	0.9922	0.0159	0.4866
2004	0.7153	0.0114	0.4301
2007	0.9063	0.0145	0.4990
2008	0.3840	0.0061	0.2403
2009	0.4689	0.0074	0.3141
2101	0.7510	0.0119	0.4809
2102	0.8699	0.0138	0.5072

((Base Rates Effective  
January 1, 2023

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
2103	1.9870	0.0320	0.9149
2104	0.3998	0.0061	0.3889
2105	0.9380	0.0151	0.4400
2106	0.7094	0.0113	0.4134
2201	0.3945	0.0062	0.2893
2202	0.9423	0.0151	0.4659
2203	0.6215	0.0098	0.4090
2204	0.3945	0.0062	0.2893
2401	0.6566	0.0106	0.2895
2903	0.7765	0.0122	0.5221
2904	1.0000	0.0161	0.4615
2905	0.6490	0.0103	0.4111
2906	0.7160	0.0113	0.4597
2907	0.5414	0.0085	0.3654
2908	1.0914	0.0172	0.7109
2909	0.5012	0.0079	0.3670
3101	1.0199	0.0164	0.4998
3102	0.3876	0.0063	0.1713
3103	0.4891	0.0079	0.2409
3104	0.8821	0.0140	0.5531
3105	1.0513	0.0166	0.7134
3303	0.4879	0.0078	0.2711
3304	0.8750	0.0138	0.5574
3309	0.5323	0.0085	0.2772
3402	0.5639	0.0090	0.3231
3403	0.1883	0.0030	0.0924
3404	0.6827	0.0109	0.3609
3405	0.3674	0.0059	0.1947
3406	0.3455	0.0055	0.1995
3407	1.1144	0.0180	0.4601
3408	0.3721	0.0060	0.1695
3409	0.2113	0.0033	0.1337
3410	0.2113	0.0033	0.1337
3411	0.7077	0.0114	0.3014
3412	1.0731	0.0175	0.3677
3414	1.1398	0.0184	0.4952
3415	1.6180	0.0260	0.7871
3501	0.5467	0.0086	0.3710
3503	0.4392	0.0070	0.2503
3506	1.2007	0.0195	0.4803
3509	0.6088	0.0097	0.3265
3510	0.4614	0.0073	0.3156
3511	1.0584	0.0168	0.6174
3512	0.4515	0.0071	0.3063
3513	0.5636	0.0090	0.3307

((Base Rates Effective  
January 1, 2023

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
3602	0.1330	0.0021	0.0751
3603	0.6200	0.0099	0.3530
3604	1.0620	0.0170	0.5859
3605	0.5639	0.0090	0.3231
3701	0.3876	0.0063	0.1713
3702	0.4712	0.0075	0.2832
3708	0.8790	0.0141	0.4591
3802	0.2659	0.0042	0.1648
3808	0.5347	0.0086	0.2856
3901	0.1692	0.0026	0.1308
3902	0.5841	0.0092	0.3943
3903	0.7621	0.0120	0.5146
3905	0.1494	0.0023	0.1255
3906	0.5744	0.0090	0.4079
3909	0.3140	0.0049	0.2242
4101	0.2826	0.0045	0.1733
4103	0.6950	0.0110	0.4295
4107	0.2742	0.0044	0.1292
4108	0.2035	0.0032	0.1246
4109	0.2627	0.0041	0.1833
4201	1.3468	0.0221	0.3764
4301	0.9912	0.0155	0.7316
4302	1.0189	0.0163	0.5216
4304	1.0641	0.0166	0.8518
4305	1.5664	0.0254	0.6292
4401	0.4879	0.0078	0.2711
4402	0.8963	0.0144	0.4163
4404	0.6449	0.0103	0.3544
4501	0.2142	0.0034	0.1287
4502	0.0863	0.0014	0.0440
4504	0.1425	0.0022	0.1056
4802	0.5612	0.0089	0.3580
4803	0.5040	0.0078	0.4083
4804	0.6330	0.0099	0.4849
4805	0.4214	0.0065	0.3454
4806	0.1525	0.0024	0.1236
4808	0.6863	0.0110	0.3820
4809	0.3211	0.0051	0.2068
4810	0.3188	0.0050	0.2277
4811	0.5554	0.0086	0.4494
4812	0.5829	0.0093	0.3338
4813	0.3073	0.0047	0.2679
4900	0.1777	0.0029	0.0792
4901	0.0628	0.0010	0.0249
4902	0.1145	0.0018	0.0560



((Base Rates Effective  
January 1, 2023

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
4903	0.2539	0.0041	0.1112
4904	0.0181	0.0003	0.0111
4905	0.4317	0.0067	0.3268
4906	0.1497	0.0024	0.0716
4907	0.0635	0.0010	0.0659
4908	0.1099	0.0017	0.1077
4909	0.0440	0.0007	0.0430
4910	0.6523	0.0105	0.3177
4911	0.0888	0.0014	0.0418
5001	12.2119	0.1986	4.4736
5002	0.7949	0.0128	0.3816
5003	3.6063	0.0587	1.2922
5004	1.2489	0.0197	0.8567
5005	1.5000	0.0244	0.5433
5006	1.9028	0.0311	0.6321
5101	1.4197	0.0231	0.5173
5103	1.1324	0.0180	0.6845
5106	1.1324	0.0180	0.6845
5108	1.1242	0.0181	0.5329
5109	0.7102	0.0115	0.3092
5201	0.3914	0.0062	0.2269
5204	1.6089	0.0263	0.5075
5206	0.5906	0.0095	0.2845
5207	0.1733	0.0027	0.1270
5208	0.8737	0.0140	0.4353
5209	0.8582	0.0137	0.4461
5300	0.1277	0.0020	0.0652
5301	0.0419	0.0007	0.0221
5302	0.0103	0.0002	0.0049
5305	0.0573	0.0009	0.0328
5306	0.0493	0.0008	0.0313
5307	1.0288	0.0167	0.4087
5308	0.1068	0.0017	0.0749
6103	0.1022	0.0016	0.0842
6104	0.4848	0.0077	0.2882
6105	0.7673	0.0124	0.3322
6107	0.1754	0.0027	0.1810
6108	0.3003	0.0047	0.2504
6109	0.1749	0.0028	0.0754
6110	0.5747	0.0092	0.2715
6120	0.4665	0.0075	0.2157
6121	0.6743	0.0109	0.2716
6201	0.7242	0.0117	0.3397
6202	1.1183	0.0179	0.6068
6203	0.0979	0.0015	0.1133

((Base Rates Effective  
January 1, 2023

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
6204	0.1557	0.0024	0.1133
6205	0.2242	0.0036	0.1401
6206	0.2503	0.0040	0.1607
6207	1.2645	0.0201	0.7255
6208	0.2431	0.0037	0.2296
6209	0.3127	0.0049	0.2583
6301	0.2043	0.0033	0.0888
6303	0.0694	0.0011	0.0339
6305	0.1181	0.0019	0.0855
6306	0.4843	0.0077	0.2755
6308	0.0924	0.0015	0.0461
6309	0.2775	0.0044	0.1722
6402	0.3001	0.0047	0.2254
6403	0.1738	0.0027	0.1181
6404	0.3661	0.0058	0.2576
6405	0.8973	0.0144	0.4281
6406	0.1883	0.0030	0.1230
6407	0.3588	0.0057	0.2206
6408	0.8774	0.0140	0.4795
6409	1.0273	0.0166	0.4536
6410	0.4090	0.0065	0.2220
6411	0.0494	0.0008	0.0385
6501	0.1361	0.0022	0.0686
6502	0.0316	0.0005	0.0160
6503	0.1276	0.0021	0.0474
6504	0.2983	0.0046	0.2835
6505	0.1617	0.0025	0.1552
6506	0.1595	0.0025	0.0918
6509	0.2773	0.0043	0.2240
6510	0.6657	0.0109	0.2072
6511	0.3309	0.0052	0.2263
6512	0.1331	0.0021	0.0634
6601	0.2526	0.0040	0.1581
6602	0.7505	0.0119	0.4893
6603	0.3639	0.0057	0.2463
6604	0.0880	0.0014	0.0564
6605	0.4142	0.0066	0.2308
6607	0.1297	0.0020	0.0958
6608	0.8589	0.0141	0.2279
6620	4.9072	0.0792	2.1672
6704	0.1555	0.0025	0.0998
6705	0.7603	0.0116	0.7794
6706	0.2943	0.0046	0.2225
6707	10.7450	0.1644	10.3227
6708	10.0959	0.1545	9.7385

((Base Rates Effective  
January 1, 2023

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
6709	0.3399	0.0054	0.2124
6801	1.0422	0.0171	0.3036
6802	1.2009	0.0194	0.5510
6803	0.9011	0.0148	0.2340
6804	0.3376	0.0054	0.2007
6809	4.4435	0.0694	3.3972
6901	0.0000	0.0000	0.0730
6902	1.1239	0.0181	0.5000
6903	7.0300	0.1148	2.2825
6904	2.1247	0.0347	0.6933
6905	1.6436	0.0269	0.5200
6906	0.0000	0.0000	0.4692
6907	1.0370	0.0165	0.6361
6908	0.5278	0.0084	0.2812
6909	0.1501	0.0024	0.0864
7100	0.0266	0.0004	0.0111
7101	0.0369	0.0006	0.0155
7103	1.6253	0.0265	0.5475
7104	0.0350	0.0006	0.0179
7105	0.0235	0.0004	0.0129
7106	0.3432	0.0054	0.2127
7107	0.5524	0.0088	0.3024
7108	0.3425	0.0054	0.2370
7109	0.1327	0.0021	0.0705
7110	0.6587	0.0106	0.3070
7111	0.5157	0.0084	0.1658
7112	0.7911	0.0125	0.5382
7113	0.5187	0.0083	0.3019
7114	0.9638	0.0152	0.6707
7115	0.7473	0.0117	0.5529
7116	0.7556	0.0121	0.3658
7117	1.3440	0.0213	0.8243
7118	2.3717	0.0381	1.1455
7119	2.4925	0.0403	1.0894
7120	7.8320	0.1269	3.1459
7121	12.0262	0.1959	4.2225
7122	0.4200	0.0065	0.3327
7200	3.7539	0.0616	1.0589
7201	2.6641	0.0435	0.8917
7202	0.0309	0.0005	0.0153
7203	0.1098	0.0017	0.1067
7204	0.0000	0.0000	0.0000
7205	0.0000	0.0000	0.0000
7301	0.8438	0.0132	0.6478
7302	0.9909	0.0155	0.7219

**((Base Rates Effective  
January 1, 2023**

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
7307	0.5920	0.0094	0.3765
7308	0.2906	0.0045	0.2528
7309	0.2659	0.0041	0.2356
7400	4.3170	0.0708	1.2178))

**Base Rates Effective  
January 1, 2024**

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
<u>101</u>	<u>1.4877</u>	<u>0.0227</u>	<u>0.5543</u>
<u>103</u>	<u>1.5929</u>	<u>0.0239</u>	<u>0.8860</u>
<u>104</u>	<u>1.2520</u>	<u>0.0191</u>	<u>0.4479</u>
<u>105</u>	<u>1.3124</u>	<u>0.0197</u>	<u>0.7101</u>
<u>106</u>	<u>3.3748</u>	<u>0.0503</u>	<u>2.0647</u>
<u>107</u>	<u>1.2683</u>	<u>0.0193</u>	<u>0.5116</u>
<u>108</u>	<u>1.2520</u>	<u>0.0191</u>	<u>0.4479</u>
<u>112</u>	<u>1.0447</u>	<u>0.0158</u>	<u>0.4734</u>
<u>201</u>	<u>3.4864</u>	<u>0.0536</u>	<u>1.0267</u>
<u>202</u>	<u>2.6273</u>	<u>0.0402</u>	<u>0.9024</u>
<u>210</u>	<u>1.4479</u>	<u>0.0221</u>	<u>0.5287</u>
<u>212</u>	<u>1.2793</u>	<u>0.0193</u>	<u>0.5827</u>
<u>214</u>	<u>2.3252</u>	<u>0.0357</u>	<u>0.7117</u>
<u>217</u>	<u>1.3531</u>	<u>0.0205</u>	<u>0.5847</u>
<u>219</u>	<u>0.9941</u>	<u>0.0151</u>	<u>0.4249</u>
<u>301</u>	<u>1.2323</u>	<u>0.0185</u>	<u>0.6766</u>
<u>302</u>	<u>2.6965</u>	<u>0.0411</u>	<u>1.0067</u>
<u>303</u>	<u>2.4508</u>	<u>0.0373</u>	<u>0.9725</u>
<u>306</u>	<u>1.1022</u>	<u>0.0168</u>	<u>0.4276</u>
<u>307</u>	<u>1.0659</u>	<u>0.0161</u>	<u>0.5007</u>
<u>308</u>	<u>0.7231</u>	<u>0.0107</u>	<u>0.4620</u>
<u>403</u>	<u>2.0354</u>	<u>0.0309</u>	<u>0.8657</u>
<u>502</u>	<u>1.1293</u>	<u>0.0171</u>	<u>0.4724</u>
<u>504</u>	<u>2.4401</u>	<u>0.0369</u>	<u>1.0806</u>
<u>507</u>	<u>3.6133</u>	<u>0.0542</u>	<u>1.9782</u>
<u>508</u>	<u>2.4274</u>	<u>0.0373</u>	<u>0.6922</u>
<u>509</u>	<u>1.4626</u>	<u>0.0225</u>	<u>0.4028</u>
<u>510</u>	<u>2.9253</u>	<u>0.0441</u>	<u>1.4592</u>
<u>511</u>	<u>1.9058</u>	<u>0.0289</u>	<u>0.7953</u>
<u>512</u>	<u>1.5414</u>	<u>0.0232</u>	<u>0.7458</u>
<u>513</u>	<u>1.2445</u>	<u>0.0189</u>	<u>0.5370</u>
<u>514</u>	<u>1.7357</u>	<u>0.0262</u>	<u>0.8473</u>
<u>516</u>	<u>1.9385</u>	<u>0.0294</u>	<u>0.8271</u>
<u>517</u>	<u>2.2952</u>	<u>0.0349</u>	<u>0.9404</u>
<u>518</u>	<u>1.8522</u>	<u>0.0283</u>	<u>0.6483</u>
<u>519</u>	<u>2.5143</u>	<u>0.0383</u>	<u>0.9342</u>
<u>521</u>	<u>0.9268</u>	<u>0.0140</u>	<u>0.4608</u>

**Base Rates Effective  
January 1, 2024**

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
<u>601</u>	<u>0.7468</u>	<u>0.0114</u>	<u>0.2825</u>
<u>602</u>	<u>1.1533</u>	<u>0.0178</u>	<u>0.2924</u>
<u>603</u>	<u>1.2589</u>	<u>0.0193</u>	<u>0.4241</u>
<u>604</u>	<u>1.3621</u>	<u>0.0204</u>	<u>0.7285</u>
<u>606</u>	<u>0.7478</u>	<u>0.0113</u>	<u>0.3669</u>
<u>607</u>	<u>1.0648</u>	<u>0.0161</u>	<u>0.4607</u>
<u>608</u>	<u>0.5889</u>	<u>0.0090</u>	<u>0.2209</u>
<u>701</u>	<u>2.1361</u>	<u>0.0328</u>	<u>0.6291</u>
<u>803</u>	<u>0.8897</u>	<u>0.0135</u>	<u>0.3708</u>
<u>901</u>	<u>1.8522</u>	<u>0.0283</u>	<u>0.6483</u>
<u>1002</u>	<u>1.1596</u>	<u>0.0176</u>	<u>0.4745</u>
<u>1003</u>	<u>0.7765</u>	<u>0.0117</u>	<u>0.3653</u>
<u>1004</u>	<u>0.7123</u>	<u>0.0109</u>	<u>0.2390</u>
<u>1005</u>	<u>13.3138</u>	<u>0.2034</u>	<u>4.6604</u>
<u>1006</u>	<u>0.3313</u>	<u>0.0050</u>	<u>0.1555</u>
<u>1007</u>	<u>0.4428</u>	<u>0.0067</u>	<u>0.2162</u>
<u>1101</u>	<u>1.5663</u>	<u>0.0237</u>	<u>0.7019</u>
<u>1102</u>	<u>2.3924</u>	<u>0.0366</u>	<u>0.8072</u>
<u>1103</u>	<u>1.5270</u>	<u>0.0232</u>	<u>0.6384</u>
<u>1104</u>	<u>0.8335</u>	<u>0.0125</u>	<u>0.4736</u>
<u>1105</u>	<u>1.0598</u>	<u>0.0161</u>	<u>0.4605</u>
<u>1106</u>	<u>0.4889</u>	<u>0.0073</u>	<u>0.3165</u>
<u>1108</u>	<u>0.6867</u>	<u>0.0103</u>	<u>0.4008</u>
<u>1109</u>	<u>2.8511</u>	<u>0.0433</u>	<u>1.1736</u>
<u>1301</u>	<u>0.9267</u>	<u>0.0141</u>	<u>0.3956</u>
<u>1303</u>	<u>0.5963</u>	<u>0.0091</u>	<u>0.2305</u>
<u>1304</u>	<u>0.0261</u>	<u>0.0004</u>	<u>0.0118</u>
<u>1305</u>	<u>0.6753</u>	<u>0.0103</u>	<u>0.2660</u>
<u>1401</u>	<u>0.4039</u>	<u>0.0060</u>	<u>0.2893</u>
<u>1404</u>	<u>1.0128</u>	<u>0.0151</u>	<u>0.6163</u>
<u>1405</u>	<u>1.0448</u>	<u>0.0157</u>	<u>0.5178</u>
<u>1407</u>	<u>0.8888</u>	<u>0.0134</u>	<u>0.4345</u>
<u>1501</u>	<u>1.2413</u>	<u>0.0189</u>	<u>0.4917</u>
<u>1507</u>	<u>0.5990</u>	<u>0.0090</u>	<u>0.3269</u>
<u>1701</u>	<u>1.1472</u>	<u>0.0174</u>	<u>0.5013</u>
<u>1702</u>	<u>2.0818</u>	<u>0.0321</u>	<u>0.5103</u>
<u>1703</u>	<u>1.4303</u>	<u>0.0219</u>	<u>0.4586</u>
<u>1704</u>	<u>1.1472</u>	<u>0.0174</u>	<u>0.5013</u>
<u>1801</u>	<u>0.8398</u>	<u>0.0128</u>	<u>0.2994</u>
<u>1802</u>	<u>1.3437</u>	<u>0.0205</u>	<u>0.4791</u>
<u>2002</u>	<u>1.0465</u>	<u>0.0158</u>	<u>0.4954</u>
<u>2004</u>	<u>0.7771</u>	<u>0.0116</u>	<u>0.4813</u>
<u>2007</u>	<u>0.9359</u>	<u>0.0141</u>	<u>0.4885</u>
<u>2008</u>	<u>0.3251</u>	<u>0.0049</u>	<u>0.1921</u>
<u>2009</u>	<u>0.5092</u>	<u>0.0076</u>	<u>0.3313</u>

**Base Rates Effective  
January 1, 2024**

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
<u>2101</u>	<u>0.8575</u>	<u>0.0128</u>	<u>0.4940</u>
<u>2102</u>	<u>0.9187</u>	<u>0.0137</u>	<u>0.5384</u>
<u>2103</u>	<u>2.1598</u>	<u>0.0326</u>	<u>0.9995</u>
<u>2104</u>	<u>0.3953</u>	<u>0.0056</u>	<u>0.4028</u>
<u>2105</u>	<u>1.0526</u>	<u>0.0159</u>	<u>0.4826</u>
<u>2106</u>	<u>0.7155</u>	<u>0.0107</u>	<u>0.4285</u>
<u>2201</u>	<u>0.4191</u>	<u>0.0062</u>	<u>0.3135</u>
<u>2202</u>	<u>0.9908</u>	<u>0.0149</u>	<u>0.4757</u>
<u>2203</u>	<u>0.6598</u>	<u>0.0098</u>	<u>0.4355</u>
<u>2204</u>	<u>0.4191</u>	<u>0.0062</u>	<u>0.3135</u>
<u>2401</u>	<u>0.6550</u>	<u>0.0099</u>	<u>0.2959</u>
<u>2903</u>	<u>0.7874</u>	<u>0.0117</u>	<u>0.5193</u>
<u>2904</u>	<u>0.9723</u>	<u>0.0147</u>	<u>0.4452</u>
<u>2905</u>	<u>0.7057</u>	<u>0.0105</u>	<u>0.4559</u>
<u>2906</u>	<u>0.7879</u>	<u>0.0118</u>	<u>0.4671</u>
<u>2907</u>	<u>0.5454</u>	<u>0.0080</u>	<u>0.3849</u>
<u>2908</u>	<u>1.0308</u>	<u>0.0153</u>	<u>0.6810</u>
<u>2909</u>	<u>0.5502</u>	<u>0.0081</u>	<u>0.3897</u>
<u>3101</u>	<u>1.0273</u>	<u>0.0155</u>	<u>0.5100</u>
<u>3102</u>	<u>0.4229</u>	<u>0.0064</u>	<u>0.1823</u>
<u>3103</u>	<u>0.5026</u>	<u>0.0076</u>	<u>0.2434</u>
<u>3104</u>	<u>0.9477</u>	<u>0.0141</u>	<u>0.6052</u>
<u>3105</u>	<u>1.1487</u>	<u>0.0170</u>	<u>0.7530</u>
<u>3303</u>	<u>0.5294</u>	<u>0.0079</u>	<u>0.2839</u>
<u>3304</u>	<u>0.9375</u>	<u>0.0139</u>	<u>0.5875</u>
<u>3309</u>	<u>0.5523</u>	<u>0.0083</u>	<u>0.2763</u>
<u>3402</u>	<u>0.5938</u>	<u>0.0089</u>	<u>0.3393</u>
<u>3403</u>	<u>0.2021</u>	<u>0.0030</u>	<u>0.1016</u>
<u>3404</u>	<u>0.7749</u>	<u>0.0116</u>	<u>0.4001</u>
<u>3405</u>	<u>0.3629</u>	<u>0.0054</u>	<u>0.2041</u>
<u>3406</u>	<u>0.3448</u>	<u>0.0052</u>	<u>0.2000</u>
<u>3407</u>	<u>1.3048</u>	<u>0.0199</u>	<u>0.5034</u>
<u>3408</u>	<u>0.3819</u>	<u>0.0058</u>	<u>0.1759</u>
<u>3409</u>	<u>0.2128</u>	<u>0.0032</u>	<u>0.1372</u>
<u>3410</u>	<u>0.2128</u>	<u>0.0032</u>	<u>0.1372</u>
<u>3411</u>	<u>0.7216</u>	<u>0.0109</u>	<u>0.3143</u>
<u>3412</u>	<u>1.1463</u>	<u>0.0175</u>	<u>0.3996</u>
<u>3414</u>	<u>1.2195</u>	<u>0.0185</u>	<u>0.5262</u>
<u>3415</u>	<u>1.9075</u>	<u>0.0288</u>	<u>0.9190</u>
<u>3501</u>	<u>0.5461</u>	<u>0.0081</u>	<u>0.3580</u>
<u>3503</u>	<u>0.4497</u>	<u>0.0067</u>	<u>0.2553</u>
<u>3506</u>	<u>1.2453</u>	<u>0.0190</u>	<u>0.4798</u>
<u>3509</u>	<u>0.6362</u>	<u>0.0095</u>	<u>0.3384</u>
<u>3510</u>	<u>0.4804</u>	<u>0.0071</u>	<u>0.3410</u>
<u>3511</u>	<u>1.1215</u>	<u>0.0167</u>	<u>0.6773</u>

**Base Rates Effective  
January 1, 2024**

<b><u>Class</u></b>	<b><u>Accident Fund</u></b>	<b><u>Stay at Work</u></b>	<b><u>Medical Aid Fund</u></b>
<u>3512</u>	<u>0.4922</u>	<u>0.0073</u>	<u>0.3248</u>
<u>3513</u>	<u>0.6686</u>	<u>0.0100</u>	<u>0.3465</u>
<u>3602</u>	<u>0.1381</u>	<u>0.0021</u>	<u>0.0771</u>
<u>3603</u>	<u>0.6256</u>	<u>0.0093</u>	<u>0.3676</u>
<u>3604</u>	<u>1.1811</u>	<u>0.0177</u>	<u>0.6483</u>
<u>3605</u>	<u>0.5938</u>	<u>0.0089</u>	<u>0.3393</u>
<u>3701</u>	<u>0.4229</u>	<u>0.0064</u>	<u>0.1823</u>
<u>3702</u>	<u>0.4694</u>	<u>0.0070</u>	<u>0.2809</u>
<u>3708</u>	<u>0.8867</u>	<u>0.0133</u>	<u>0.4609</u>
<u>3802</u>	<u>0.2594</u>	<u>0.0039</u>	<u>0.1595</u>
<u>3808</u>	<u>0.5508</u>	<u>0.0083</u>	<u>0.2882</u>
<u>3901</u>	<u>0.1554</u>	<u>0.0023</u>	<u>0.1299</u>
<u>3902</u>	<u>0.6636</u>	<u>0.0098</u>	<u>0.4431</u>
<u>3903</u>	<u>1.0331</u>	<u>0.0153</u>	<u>0.6899</u>
<u>3905</u>	<u>0.1613</u>	<u>0.0024</u>	<u>0.1325</u>
<u>3906</u>	<u>0.6238</u>	<u>0.0092</u>	<u>0.4431</u>
<u>3909</u>	<u>0.3151</u>	<u>0.0046</u>	<u>0.2255</u>
<u>4101</u>	<u>0.2687</u>	<u>0.0040</u>	<u>0.1663</u>
<u>4103</u>	<u>0.7651</u>	<u>0.0114</u>	<u>0.4577</u>
<u>4107</u>	<u>0.2779</u>	<u>0.0042</u>	<u>0.1274</u>
<u>4108</u>	<u>0.2440</u>	<u>0.0036</u>	<u>0.1436</u>
<u>4109</u>	<u>0.2869</u>	<u>0.0043</u>	<u>0.1874</u>
<u>4201</u>	<u>1.3965</u>	<u>0.0215</u>	<u>0.3911</u>
<u>4301</u>	<u>1.0638</u>	<u>0.0157</u>	<u>0.7499</u>
<u>4302</u>	<u>1.0820</u>	<u>0.0163</u>	<u>0.5458</u>
<u>4304</u>	<u>1.0558</u>	<u>0.0154</u>	<u>0.8323</u>
<u>4305</u>	<u>1.7974</u>	<u>0.0274</u>	<u>0.7034</u>
<u>4401</u>	<u>0.5294</u>	<u>0.0079</u>	<u>0.2839</u>
<u>4402</u>	<u>0.9186</u>	<u>0.0139</u>	<u>0.4241</u>
<u>4404</u>	<u>0.7531</u>	<u>0.0113</u>	<u>0.4099</u>
<u>4501</u>	<u>0.2238</u>	<u>0.0033</u>	<u>0.1318</u>
<u>4502</u>	<u>0.0868</u>	<u>0.0013</u>	<u>0.0425</u>
<u>4504</u>	<u>0.1449</u>	<u>0.0021</u>	<u>0.1196</u>
<u>4802</u>	<u>0.6420</u>	<u>0.0095</u>	<u>0.4008</u>
<u>4803</u>	<u>0.5675</u>	<u>0.0083</u>	<u>0.4463</u>
<u>4804</u>	<u>0.6812</u>	<u>0.0100</u>	<u>0.4831</u>
<u>4805</u>	<u>0.4398</u>	<u>0.0064</u>	<u>0.3544</u>
<u>4806</u>	<u>0.1729</u>	<u>0.0025</u>	<u>0.1330</u>
<u>4808</u>	<u>0.7464</u>	<u>0.0112</u>	<u>0.4184</u>
<u>4809</u>	<u>0.3436</u>	<u>0.0051</u>	<u>0.2268</u>
<u>4810</u>	<u>0.3295</u>	<u>0.0049</u>	<u>0.2259</u>
<u>4811</u>	<u>0.5992</u>	<u>0.0087</u>	<u>0.4862</u>
<u>4812</u>	<u>0.5997</u>	<u>0.0090</u>	<u>0.3342</u>
<u>4813</u>	<u>0.3541</u>	<u>0.0051</u>	<u>0.3104</u>
<u>4900</u>	<u>0.1895</u>	<u>0.0029</u>	<u>0.0845</u>

**Base Rates Effective  
January 1, 2024**

<b><u>Class</u></b>	<b><u>Accident Fund</u></b>	<b><u>Stay at Work</u></b>	<b><u>Medical Aid Fund</u></b>
<u>4901</u>	<u>0.0658</u>	<u>0.0010</u>	<u>0.0261</u>
<u>4902</u>	<u>0.1103</u>	<u>0.0017</u>	<u>0.0512</u>
<u>4903</u>	<u>0.2863</u>	<u>0.0043</u>	<u>0.1268</u>
<u>4904</u>	<u>0.0183</u>	<u>0.0003</u>	<u>0.0112</u>
<u>4905</u>	<u>0.4816</u>	<u>0.0071</u>	<u>0.3474</u>
<u>4906</u>	<u>0.1700</u>	<u>0.0026</u>	<u>0.0769</u>
<u>4907</u>	<u>0.0640</u>	<u>0.0009</u>	<u>0.0609</u>
<u>4908</u>	<u>0.1124</u>	<u>0.0016</u>	<u>0.1176</u>
<u>4909</u>	<u>0.0450</u>	<u>0.0006</u>	<u>0.0470</u>
<u>4910</u>	<u>0.7109</u>	<u>0.0107</u>	<u>0.3418</u>
<u>4911</u>	<u>0.0993</u>	<u>0.0015</u>	<u>0.0447</u>
<u>5001</u>	<u>12.6105</u>	<u>0.1924</u>	<u>4.5905</u>
<u>5002</u>	<u>0.8388</u>	<u>0.0127</u>	<u>0.3952</u>
<u>5003</u>	<u>4.0337</u>	<u>0.0616</u>	<u>1.4232</u>
<u>5004</u>	<u>1.3714</u>	<u>0.0203</u>	<u>0.9287</u>
<u>5005</u>	<u>1.6370</u>	<u>0.0250</u>	<u>0.5744</u>
<u>5006</u>	<u>1.9942</u>	<u>0.0305</u>	<u>0.6507</u>
<u>5101</u>	<u>1.4033</u>	<u>0.0214</u>	<u>0.5149</u>
<u>5103</u>	<u>1.2189</u>	<u>0.0182</u>	<u>0.7122</u>
<u>5106</u>	<u>1.2189</u>	<u>0.0182</u>	<u>0.7122</u>
<u>5108</u>	<u>1.2451</u>	<u>0.0189</u>	<u>0.5443</u>
<u>5109</u>	<u>0.7108</u>	<u>0.0108</u>	<u>0.3022</u>
<u>5201</u>	<u>0.3847</u>	<u>0.0057</u>	<u>0.2350</u>
<u>5204</u>	<u>1.8262</u>	<u>0.0280</u>	<u>0.5438</u>
<u>5206</u>	<u>0.5967</u>	<u>0.0090</u>	<u>0.2778</u>
<u>5207</u>	<u>0.1952</u>	<u>0.0029</u>	<u>0.1438</u>
<u>5208</u>	<u>0.8838</u>	<u>0.0133</u>	<u>0.4449</u>
<u>5209</u>	<u>0.8783</u>	<u>0.0132</u>	<u>0.4474</u>
<u>5300</u>	<u>0.1228</u>	<u>0.0018</u>	<u>0.0619</u>
<u>5301</u>	<u>0.0382</u>	<u>0.0006</u>	<u>0.0205</u>
<u>5302</u>	<u>0.0099</u>	<u>0.0001</u>	<u>0.0043</u>
<u>5305</u>	<u>0.0700</u>	<u>0.0011</u>	<u>0.0362</u>
<u>5306</u>	<u>0.0518</u>	<u>0.0008</u>	<u>0.0306</u>
<u>5307</u>	<u>1.0920</u>	<u>0.0166</u>	<u>0.4341</u>
<u>5308</u>	<u>0.1193</u>	<u>0.0018</u>	<u>0.0799</u>
<u>6103</u>	<u>0.1102</u>	<u>0.0016</u>	<u>0.0909</u>
<u>6104</u>	<u>0.5117</u>	<u>0.0077</u>	<u>0.2909</u>
<u>6105</u>	<u>0.8821</u>	<u>0.0134</u>	<u>0.3476</u>
<u>6107</u>	<u>0.1916</u>	<u>0.0027</u>	<u>0.1962</u>
<u>6108</u>	<u>0.3425</u>	<u>0.0050</u>	<u>0.2658</u>
<u>6109</u>	<u>0.2006</u>	<u>0.0030</u>	<u>0.0836</u>
<u>6110</u>	<u>0.6449</u>	<u>0.0098</u>	<u>0.2752</u>
<u>6120</u>	<u>0.5167</u>	<u>0.0078</u>	<u>0.2175</u>
<u>6121</u>	<u>0.7253</u>	<u>0.0110</u>	<u>0.2946</u>
<u>6201</u>	<u>0.7769</u>	<u>0.0117</u>	<u>0.3732</u>



**Base Rates Effective  
January 1, 2024**

<b><u>Class</u></b>	<b><u>Accident Fund</u></b>	<b><u>Stay at Work</u></b>	<b><u>Medical Aid Fund</u></b>
<u>6202</u>	<u>1.1898</u>	<u>0.0178</u>	<u>0.6552</u>
<u>6203</u>	<u>0.1053</u>	<u>0.0015</u>	<u>0.1155</u>
<u>6204</u>	<u>0.1550</u>	<u>0.0023</u>	<u>0.1124</u>
<u>6205</u>	<u>0.2498</u>	<u>0.0037</u>	<u>0.1503</u>
<u>6206</u>	<u>0.2663</u>	<u>0.0039</u>	<u>0.1774</u>
<u>6207</u>	<u>1.2653</u>	<u>0.0189</u>	<u>0.7275</u>
<u>6208</u>	<u>0.2402</u>	<u>0.0034</u>	<u>0.2398</u>
<u>6209</u>	<u>0.3405</u>	<u>0.0050</u>	<u>0.2833</u>
<u>6301</u>	<u>0.2146</u>	<u>0.0033</u>	<u>0.0926</u>
<u>6303</u>	<u>0.0698</u>	<u>0.0011</u>	<u>0.0342</u>
<u>6305</u>	<u>0.1279</u>	<u>0.0019</u>	<u>0.0948</u>
<u>6306</u>	<u>0.5369</u>	<u>0.0080</u>	<u>0.3004</u>
<u>6308</u>	<u>0.1118</u>	<u>0.0017</u>	<u>0.0550</u>
<u>6309</u>	<u>0.2992</u>	<u>0.0044</u>	<u>0.1870</u>
<u>6402</u>	<u>0.3106</u>	<u>0.0046</u>	<u>0.2361</u>
<u>6403</u>	<u>0.1990</u>	<u>0.0030</u>	<u>0.1301</u>
<u>6404</u>	<u>0.4109</u>	<u>0.0061</u>	<u>0.2856</u>
<u>6405</u>	<u>0.9393</u>	<u>0.0142</u>	<u>0.4517</u>
<u>6406</u>	<u>0.2090</u>	<u>0.0031</u>	<u>0.1346</u>
<u>6407</u>	<u>0.3684</u>	<u>0.0055</u>	<u>0.2255</u>
<u>6408</u>	<u>0.8975</u>	<u>0.0134</u>	<u>0.4981</u>
<u>6409</u>	<u>1.0915</u>	<u>0.0165</u>	<u>0.4764</u>
<u>6410</u>	<u>0.4310</u>	<u>0.0065</u>	<u>0.2291</u>
<u>6411</u>	<u>0.0543</u>	<u>0.0008</u>	<u>0.0440</u>
<u>6501</u>	<u>0.1410</u>	<u>0.0021</u>	<u>0.0667</u>
<u>6502</u>	<u>0.0296</u>	<u>0.0004</u>	<u>0.0157</u>
<u>6503</u>	<u>0.1393</u>	<u>0.0021</u>	<u>0.0472</u>
<u>6504</u>	<u>0.3129</u>	<u>0.0045</u>	<u>0.2669</u>
<u>6505</u>	<u>0.1569</u>	<u>0.0022</u>	<u>0.1550</u>
<u>6506</u>	<u>0.1669</u>	<u>0.0025</u>	<u>0.0920</u>
<u>6509</u>	<u>0.3060</u>	<u>0.0045</u>	<u>0.2341</u>
<u>6510</u>	<u>0.7395</u>	<u>0.0113</u>	<u>0.2241</u>
<u>6511</u>	<u>0.3438</u>	<u>0.0051</u>	<u>0.2225</u>
<u>6512</u>	<u>0.1412</u>	<u>0.0021</u>	<u>0.0682</u>
<u>6601</u>	<u>0.2776</u>	<u>0.0041</u>	<u>0.1640</u>
<u>6602</u>	<u>0.8346</u>	<u>0.0124</u>	<u>0.5191</u>
<u>6603</u>	<u>0.3789</u>	<u>0.0056</u>	<u>0.2512</u>
<u>6604</u>	<u>0.0866</u>	<u>0.0013</u>	<u>0.0539</u>
<u>6605</u>	<u>0.4213</u>	<u>0.0063</u>	<u>0.2414</u>
<u>6607</u>	<u>0.1536</u>	<u>0.0023</u>	<u>0.1101</u>
<u>6608</u>	<u>0.8614</u>	<u>0.0133</u>	<u>0.2228</u>
<u>6620</u>	<u>5.4004</u>	<u>0.0819</u>	<u>2.2920</u>
<u>6704</u>	<u>0.1709</u>	<u>0.0025</u>	<u>0.1024</u>
<u>6705</u>	<u>0.8624</u>	<u>0.0124</u>	<u>0.8589</u>
<u>6706</u>	<u>0.2985</u>	<u>0.0044</u>	<u>0.2278</u>

**Base Rates Effective  
January 1, 2024**

<b>Class</b>	<b>Accident Fund</b>	<b>Stay at Work</b>	<b>Medical Aid Fund</b>
<u>6707</u>	<u>8.9916</u>	<u>0.1268</u>	<u>10.2898</u>
<u>6708</u>	<u>10.6233</u>	<u>0.1529</u>	<u>10.0536</u>
<u>6709</u>	<u>0.3506</u>	<u>0.0052</u>	<u>0.2181</u>
<u>6801</u>	<u>1.0721</u>	<u>0.0165</u>	<u>0.3129</u>
<u>6802</u>	<u>1.4126</u>	<u>0.0214</u>	<u>0.6342</u>
<u>6803</u>	<u>0.9759</u>	<u>0.0151</u>	<u>0.2468</u>
<u>6804</u>	<u>0.3729</u>	<u>0.0056</u>	<u>0.2101</u>
<u>6809</u>	<u>4.2952</u>	<u>0.0633</u>	<u>3.0867</u>
<u>6901</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0726</u>
<u>6902</u>	<u>1.2078</u>	<u>0.0183</u>	<u>0.5160</u>
<u>6903</u>	<u>6.8158</u>	<u>0.1045</u>	<u>2.1419</u>
<u>6904</u>	<u>2.5875</u>	<u>0.0399</u>	<u>0.6747</u>
<u>6905</u>	<u>2.0753</u>	<u>0.0321</u>	<u>0.4332</u>
<u>6906</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.5503</u>
<u>6907</u>	<u>1.0822</u>	<u>0.0161</u>	<u>0.6665</u>
<u>6908</u>	<u>0.5923</u>	<u>0.0089</u>	<u>0.3265</u>
<u>6909</u>	<u>0.1649</u>	<u>0.0025</u>	<u>0.0910</u>
<u>7100</u>	<u>0.0269</u>	<u>0.0004</u>	<u>0.0112</u>
<u>7101</u>	<u>0.0416</u>	<u>0.0006</u>	<u>0.0160</u>
<u>7103</u>	<u>1.8271</u>	<u>0.0280</u>	<u>0.6056</u>
<u>7104</u>	<u>0.0389</u>	<u>0.0006</u>	<u>0.0189</u>
<u>7105</u>	<u>0.0267</u>	<u>0.0004</u>	<u>0.0132</u>
<u>7106</u>	<u>0.3265</u>	<u>0.0049</u>	<u>0.2063</u>
<u>7107</u>	<u>0.6067</u>	<u>0.0091</u>	<u>0.3137</u>
<u>7108</u>	<u>0.4003</u>	<u>0.0059</u>	<u>0.2716</u>
<u>7109</u>	<u>0.1525</u>	<u>0.0023</u>	<u>0.0770</u>
<u>7110</u>	<u>0.7127</u>	<u>0.0108</u>	<u>0.3330</u>
<u>7111</u>	<u>0.6359</u>	<u>0.0098</u>	<u>0.1800</u>
<u>7112</u>	<u>0.8541</u>	<u>0.0126</u>	<u>0.6054</u>
<u>7113</u>	<u>0.6459</u>	<u>0.0097</u>	<u>0.3676</u>
<u>7114</u>	<u>0.9879</u>	<u>0.0146</u>	<u>0.6906</u>
<u>7115</u>	<u>0.7896</u>	<u>0.0116</u>	<u>0.5900</u>
<u>7116</u>	<u>0.8811</u>	<u>0.0133</u>	<u>0.4270</u>
<u>7117</u>	<u>1.4180</u>	<u>0.0212</u>	<u>0.8262</u>
<u>7118</u>	<u>2.3715</u>	<u>0.0358</u>	<u>1.0980</u>
<u>7119</u>	<u>2.7980</u>	<u>0.0424</u>	<u>1.1889</u>
<u>7120</u>	<u>8.9874</u>	<u>0.1368</u>	<u>3.5170</u>
<u>7121</u>	<u>12.1415</u>	<u>0.1856</u>	<u>4.2077</u>
<u>7122</u>	<u>0.4582</u>	<u>0.0067</u>	<u>0.3545</u>
<u>7200</u>	<u>4.5303</u>	<u>0.0697</u>	<u>1.2621</u>
<u>7201</u>	<u>2.9715</u>	<u>0.0455</u>	<u>0.9833</u>
<u>7202</u>	<u>0.0271</u>	<u>0.0004</u>	<u>0.0132</u>
<u>7203</u>	<u>0.1140</u>	<u>0.0016</u>	<u>0.1076</u>
<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>
<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>

**Base Rates Effective  
January 1, 2024**

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>
<u>7301</u>	<u>0.9643</u>	<u>0.0142</u>	<u>0.6739</u>
<u>7302</u>	<u>1.1065</u>	<u>0.0163</u>	<u>0.8223</u>
<u>7307</u>	<u>0.5832</u>	<u>0.0087</u>	<u>0.3749</u>
<u>7308</u>	<u>0.3307</u>	<u>0.0048</u>	<u>0.2834</u>
<u>7309</u>	<u>0.2605</u>	<u>0.0038</u>	<u>0.2271</u>
<u>7400</u>	<u>5.2100</u>	<u>0.0802</u>	<u>1.4512</u>

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications.** The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

~~((Base Rates Effective  
January 1, 2023~~

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>
<u>540</u>	<u>0.0234</u>	<u>0.0004</u>	<u>0.0111</u>	<u>0.0013</u>
<u>541</u>	<u>0.0124</u>	<u>0.0002</u>	<u>0.0057</u>	<u>0.0013</u>
<u>550</u>	<u>0.0548</u>	<u>0.0009</u>	<u>0.0197</u>	<u>0.0013</u>
<u>551</u>	<u>0.0175</u>	<u>0.0003</u>	<u>0.0074</u>	<u>0.0013))</u>

**Base Rates Effective  
January 1, 2024**

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>
<u>540</u>	<u>0.0220</u>	<u>0.0003</u>	<u>0.0107</u>	<u>0.0014</u>
<u>541</u>	<u>0.0126</u>	<u>0.0002</u>	<u>0.0057</u>	<u>0.0014</u>
<u>550</u>	<u>0.0573</u>	<u>0.0009</u>	<u>0.0215</u>	<u>0.0014</u>
<u>551</u>	<u>0.0191</u>	<u>0.0003</u>	<u>0.0076</u>	<u>0.0014</u>

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-89507 Horse racing rates.** Horse racing industry industrial insurance accident fund, stay at work fund, medical aid fund, supplemental pension fund and composite rate by class.

~~((Base Rates Effective  
January 1, 2023~~

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>	<u>Composite Rate</u>
<u>6618</u>	<u>74.00*</u>	<u>1.00*</u>	<u>74.00*</u>	<u>1.00*</u>	<u>150.00*</u>

Class	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund	Composite Rate
6625	83.87**	1.55**	79.38**	16.74**	181.54**
6626	0.6561***	0.0121***	0.6444***	0.1674***	1.4800***
6627	11.9010****	0.2190****	8.9540****	1.2560****	22.3300****)

**Base Rates Effective  
January 1, 2024**

Class	Accident Fund	Stay at Work	Medical Aid Fund	Supplemental Pension Fund	Composite Rate
6618	74.00*	1.00*	74.00*	1.00*	150.00*
6625	89.44**	1.54**	80.21**	17.10**	188.29**
6626	0.7101***	0.0123***	0.6866***	0.1710***	1.5800***
6627	12.7540****	0.2200****	9.1630****	1.2830****	23.4200****

\*This rate is calculated on a percentage of ownership in a horse or horses.

\*\*This rate is calculated per month.

\*\*\*This rate is calculated per horse per day.

\*\*\*\*This rate is calculated per day.

Note: These rates are not subject to experience rating or retrospective rating.

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class.**

**(Base Rates Effective  
January 1, 2023**

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund
4814	0.1214	0.0018	0.1300	0.1674
4815	0.2253	0.0034	0.2722	0.1674
4816	0.3633	0.0055	0.3658	0.1674))

**Base Rates Effective  
January 1, 2024**

Class	Accident Fund	Stay at Work Fund	Medical Aid Fund	Supplemental Pension Fund
4814	0.1233	0.0018	0.1298	0.1710
4815	0.3197	0.0046	0.3109	0.1710
4816	0.3783	0.0054	0.4197	0.1710

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17-920 Assessment for supplemental pension fund.** The amount of ~~((83.7))~~ 85.5 mils ~~(((\$0.0837))~~ \$0.0855) shall be retained

by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July, and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-229. All such moneys shall be deposited in the supplemental pension fund.

**OTS-4946.1**

AMENDATORY SECTION (Amending WSR 23-12-071, filed 6/6/23, effective 7/7/23)

**WAC 296-17B-540 Determining loss incurred for each claim. (1)**

Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate discounted loss development factors to determine the initial loss incurred.

If you have a fatality, we will use (~~(\$521,600)~~) \$544,000 as the claim's initial incurred loss for the claim, with (~~(\$486,600)~~) \$507,800 for accident fund incurred loss and (~~(\$35,000)~~) \$36,200 for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

AMENDATORY SECTION (Amending WSR 22-24-019, filed 11/30/22, effective 1/1/23)

**WAC 296-17B-900 Retrospective rating plans standard premium size ranges.**

RETROSPECTIVE RATING STANDARD PREMIUM SIZE RANGES  
(~~Effective January 1, 2023~~)

Size Group Number	Standard Premium Range	
	From:	To:
1	5,340 -	6,229

Size Group Number	Standard Premium Range	
	From:	To:
2	6,230 -	7,039
3	7,040 -	7,929
4	7,930 -	8,889
5	8,890 -	9,899
6	9,900 -	10,979
7	10,980 -	12,149
8	12,150 -	13,379
9	13,380 -	14,689
10	14,690 -	16,069
11	16,070 -	17,529
12	17,530 -	19,099
13	19,100 -	20,759
14	20,760 -	22,519
15	22,520 -	24,369
16	24,370 -	26,339
17	26,340 -	28,429
18	28,430 -	30,629
19	30,630 -	32,969
20	32,970 -	35,429
21	35,430 -	38,069
22	38,070 -	40,859
23	40,860 -	43,819
24	43,820 -	46,959
25	46,960 -	50,309
26	50,310 -	53,869
27	53,870 -	57,659
28	57,660 -	61,679
29	61,680 -	65,979
30	65,980 -	70,569
31	70,570 -	75,479
32	75,480 -	80,739
33	80,740 -	86,369
34	86,370 -	92,429
35	92,430 -	98,939
36	98,940 -	105,999
37	106,000 -	113,599
38	113,600 -	121,699
39	121,700 -	130,499
40	130,500 -	139,899
41	139,900 -	150,199
42	150,200 -	161,099
43	161,100 -	172,899
44	172,900 -	185,799
45	185,800 -	199,799
46	199,800 -	214,799
47	214,800 -	231,099

Size Group Number	Standard Premium Range	
	From:	To:
48	231,100	249,399
49	249,400	268,899
50	268,900	290,399
51	290,400	314,299
52	314,300	340,699
53	340,700	370,499
54	370,500	403,499
55	403,500	440,599
56	440,600	482,799
57	482,800	530,499
58	530,500	585,399
59	585,400	648,899
60	648,900	722,999
61	723,000	810,099
62	810,100	913,299
63	913,300	1,038,999
64	1,039,000	1,193,999
65	1,194,000	1,386,999
66	1,387,000	1,636,999
67	1,637,000	1,965,999
68	1,966,000	2,425,999
69	2,426,000	3,102,999
70	3,103,000	4,219,999
71	4,220,000	6,325,999
72	6,326,000	11,579,999
73	11,580,000	29,609,999
74	29,610,000	and over))

**Effective January 1, 2024**

Size Group Number	Standard Premium Range	
	From:	To:
<u>1</u>	<u>5,660</u>	<u>6,599</u>
<u>2</u>	<u>6,600</u>	<u>7,459</u>
<u>3</u>	<u>7,460</u>	<u>8,399</u>
<u>4</u>	<u>8,400</u>	<u>9,409</u>
<u>5</u>	<u>9,410</u>	<u>10,479</u>
<u>6</u>	<u>10,480</u>	<u>11,629</u>
<u>7</u>	<u>11,630</u>	<u>12,869</u>
<u>8</u>	<u>12,870</u>	<u>14,169</u>
<u>9</u>	<u>14,170</u>	<u>15,559</u>
<u>10</u>	<u>15,560</u>	<u>17,019</u>
<u>11</u>	<u>17,020</u>	<u>18,559</u>
<u>12</u>	<u>18,560</u>	<u>20,229</u>
<u>13</u>	<u>20,230</u>	<u>21,979</u>
<u>14</u>	<u>21,980</u>	<u>23,849</u>
<u>15</u>	<u>23,850</u>	<u>25,809</u>
<u>16</u>	<u>25,810</u>	<u>27,889</u>

<u>Size Group Number</u>	<u>Standard Premium Range</u>	
	<u>From:</u>	<u>To:</u>
<u>17</u>	<u>27,890</u>	<u>30,109</u>
<u>18</u>	<u>30,110</u>	<u>32,439</u>
<u>19</u>	<u>32,440</u>	<u>34,919</u>
<u>20</u>	<u>34,920</u>	<u>37,519</u>
<u>21</u>	<u>37,520</u>	<u>40,319</u>
<u>22</u>	<u>40,320</u>	<u>43,269</u>
<u>23</u>	<u>43,270</u>	<u>46,409</u>
<u>24</u>	<u>46,410</u>	<u>49,729</u>
<u>25</u>	<u>49,730</u>	<u>53,279</u>
<u>26</u>	<u>53,280</u>	<u>57,049</u>
<u>27</u>	<u>57,050</u>	<u>61,059</u>
<u>28</u>	<u>61,060</u>	<u>65,319</u>
<u>29</u>	<u>65,320</u>	<u>69,869</u>
<u>30</u>	<u>69,870</u>	<u>74,729</u>
<u>31</u>	<u>74,730</u>	<u>79,929</u>
<u>32</u>	<u>79,930</u>	<u>85,499</u>
<u>33</u>	<u>85,500</u>	<u>91,469</u>
<u>34</u>	<u>91,470</u>	<u>97,879</u>
<u>35</u>	<u>97,880</u>	<u>104,799</u>
<u>36</u>	<u>104,800</u>	<u>112,299</u>
<u>37</u>	<u>112,300</u>	<u>120,299</u>
<u>38</u>	<u>120,300</u>	<u>128,899</u>
<u>39</u>	<u>128,900</u>	<u>138,199</u>
<u>40</u>	<u>138,200</u>	<u>148,199</u>
<u>41</u>	<u>148,200</u>	<u>159,099</u>
<u>42</u>	<u>159,100</u>	<u>170,599</u>
<u>43</u>	<u>170,600</u>	<u>183,099</u>
<u>44</u>	<u>183,100</u>	<u>196,799</u>
<u>45</u>	<u>196,800</u>	<u>211,599</u>
<u>46</u>	<u>211,600</u>	<u>227,499</u>
<u>47</u>	<u>227,500</u>	<u>244,699</u>
<u>48</u>	<u>244,700</u>	<u>264,099</u>
<u>49</u>	<u>264,100</u>	<u>284,799</u>
<u>50</u>	<u>284,800</u>	<u>307,499</u>
<u>51</u>	<u>307,500</u>	<u>332,799</u>
<u>52</u>	<u>332,800</u>	<u>360,799</u>
<u>53</u>	<u>360,800</u>	<u>392,399</u>
<u>54</u>	<u>392,400</u>	<u>427,299</u>
<u>55</u>	<u>427,300</u>	<u>466,599</u>
<u>56</u>	<u>466,600</u>	<u>511,299</u>
<u>57</u>	<u>511,300</u>	<u>561,799</u>
<u>58</u>	<u>561,800</u>	<u>619,899</u>
<u>59</u>	<u>619,900</u>	<u>687,199</u>
<u>60</u>	<u>687,200</u>	<u>765,699</u>
<u>61</u>	<u>765,700</u>	<u>857,899</u>
<u>62</u>	<u>857,900</u>	<u>967,199</u>



<u>Size Group Number</u>	<u>Standard Premium Range</u>	
	<u>From:</u>	<u>To:</u>
<u>63</u>	<u>967,200</u>	<u>1,099,999</u>
<u>64</u>	<u>1,100,000</u>	<u>1,263,999</u>
<u>65</u>	<u>1,264,000</u>	<u>1,468,999</u>
<u>66</u>	<u>1,469,000</u>	<u>1,733,999</u>
<u>67</u>	<u>1,734,000</u>	<u>2,081,999</u>
<u>68</u>	<u>2,082,000</u>	<u>2,568,999</u>
<u>69</u>	<u>2,569,000</u>	<u>3,285,999</u>
<u>70</u>	<u>3,286,000</u>	<u>4,468,999</u>
<u>71</u>	<u>4,469,000</u>	<u>6,698,999</u>
<u>72</u>	<u>6,699,000</u>	<u>12,259,999</u>
<u>73</u>	<u>12,260,000</u>	<u>31,359,999</u>
<u>74</u>	<u>31,360,000</u>	<u>and over</u>

**OTS-4919.1**

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-871                      Director's discretion for incurred losses on claims with vocational plans.

**WSR 23-24-040**  
**PERMANENT RULES**  
**DEPARTMENT OF**

**CHILDREN, YOUTH, AND FAMILIES**

[Filed November 30, 2023, 8:47 a.m., effective December 31, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department of children, youth, and families (DCYF) is amending the child welfare placement and foster care rate assessments (FCRA), chapter 110-50 WAC. The changes were made to allow DCYF to pay additional levels of foster care maintenance payments based on the specific needs of the child or youth. The changes also allowed the standardized assessment tool to be updated to center on the child's or youth's needs, not on the home they are placed in.

Citation of Rules Affected by this Order: Repealing WAC 110-50-0260, 110-50-0270, 110-50-0560, 110-50-0570, 110-50-0580, 110-50-0590, 110-50-0600, 110-50-0610, 110-50-0620, 110-50-0630, 110-50-0640, 110-50-0650, 110-50-0660, 110-50-0670, 110-50-0680, 110-50-0690, 110-50-0700, 110-50-0710, 110-50-0720 and 110-50-0730; and amending WAC 110-50-0230, 110-50-0240, 110-50-0250, 110-50-0400, 110-50-0410, 110-50-0420, 110-50-0430, 110-50-0440, 110-50-0450, 110-50-0460, 110-50-0470, 110-50-0480, 110-50-0490, 110-50-0500, 110-50-0510, 110-50-0520, 110-50-0530, 110-50-0540, and 110-50-0550.

Statutory Authority for Adoption: RCW 43.216.065 and 74.13.031.

Adopted under notice filed as WSR 23-19-078 on September 19, 2023.

Changes Other than Editing from Proposed to Adopted Version: A minor edit for clarity was made to WAC 110-50-0240. No other changes were made from the CR-102 version that was filed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 19, Repealed 20.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 19, Repealed 20.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2023.

Brenda Villarreal  
Rules Coordinator

**OTS-4873.4**

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0230** (~~Under what conditions and how much will the department reimburse to child placing agencies licensed or certified~~)

~~under chapter 74.15 RCW to provide care to children?)) Child placing agency (CPA) expectations. ((1) The CPA representative must discuss with the department social worker for the child the roles of the agency and the department in the placement, permanency planning, and supervision of the child. The agency representative and the department social worker must also discuss services the department or the agency will provide to the child's parents and extended family.~~

~~(2) The CPA must maintain the documentation required by contract to demonstrate all services provided to children in care and for whom the department makes payment.~~

~~(3) The department will pay a monthly administrative fee to a CPA if the agency, in addition to supervision of the child, provides services to the child or the child's family.~~

~~(4) If the department wants to borrow a CPA-certified home for placement of a child, the department pays the agency for the use of the CPA's foster home with approval of the agency. The department pays the borrowed home fee described in the contract between the department and the agency.~~

~~(5) The department will pay a set monthly fee to a child placing agency for a borrowed home if the agency provides supervision services only to the child and no services to the child's family. The department pays this fee only to enable the agency to maintain the foster care license and to provide any related licensing training and support services. This activity includes maintenance of a foster care license for foster parent dependency guardianships in the agency-certified home. The following conditions also apply:~~

~~(a) The department may pay for a maximum of two borrowed beds in one foster home.~~

~~(b) If one CPA borrows a bed from another CPA, the department will pay only one service fee to one agency for the child. The two private agencies and the department will mutually identify and agree upon the agency the department will pay.~~

~~(6) The department may enter into contracts with CPAs to provide intensive treatment and supervision services to children with behavioral, emotional, medical, or developmental disabilities. The department will assess the needs of the child, assign a service level, and pay the rate provided in the contract.~~

~~(7) Before making payment for care of a child, the department must determine initial and ongoing eligibility for financial support, approve the placement, and approve the case plan for care of the child and services to the family. The department will document this approval through written agreements, documentary reports, and supervisory conferences with the CPA.)) The department requires CPAs to:~~

~~(1) Be licensed or certified under chapter 74.15 RCW.~~

~~(2) Have a contract with the department to provide child or youth placement and related services. The department will only place and pay for services to an agency that the department has a contract with.~~

~~(3) Document the services provided as required in their contract.~~

~~(4) Maintain the licenses of their foster family homes, so placements of children or youth may occur.~~

~~(5) Provide support services to the foster parents.~~

~~(6) Be financially responsible for placement costs for a child or youth that the CPA brought from another country for adoption if the adoption is not finalized, disrupts prior to finalization, or until they reach age 18.~~

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0240** (~~(What steps may the department take if a child placing agency does not meet the requirements of this chapter?)~~) **CPA reimbursement.** (~~((1) In addition to any sanctions included in the department's contract with the CPA, the DCFS social worker must stop payment of the agency administrative fees in accordance with department procedures if the department does not receive the child's report in the time frame stipulated in WAC 388-25-0425.~~

~~(2) The DCFS social worker must inform the regional licenser and contracts coordinator when there are continuing problems with reports.)~~ For licensed or certified CPAs under chapter 74.15 RCW:

(1) The department:

(a) Must:

(i) Determine initial and ongoing eligibility for financial support;

(ii) Approve placements before making payments;

(iii) Pay a monthly service fee if the agency provides services that are in addition to supervision of children or youth or their families; and

(iv) Discuss the following:

(A) Roles of the department;

(B) Placement support to foster parents;

(C) Caregiver support plan;

(D) Supervision of children or youth; and

(E) Services the department will provide to children or youth;

(b) May enter into contracts with them to provide intensive treatment and supervision services to children or youth with physical, mental health, or behavioral needs. This includes:

(i) Assessing the needs of each child or youth;

(ii) Assigning a service level for each child or youth; and

(iii) Paying the rate provided in the contract.

(2) CPAs must:

(a) Sign and return written service agreements to the department for each child or youth accepted;

(b) Document and maintain documentation required in their contract to demonstrate case management and support services provided to children or youth for whom the department makes payment; and

(c) Provide quarterly reports to DCYF caseworkers as required in their contract for each child or youth whose placement or services the department pays for.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0250** (~~(What are the department's expectations for child placing agencies (CPA) to which the department makes reimbursement for services or administrative costs?)~~) **CPA contractual requirements.** (~~((1) The department requires that the child placing agency (CPA) be licensed or certified under chapter 74.15 RCW and have a contract with the department for the provision of child placement and related services.~~

~~(2) The CPA must document the services provided in a format described by the department in the contract.~~

~~(3) When the department agrees to place a child with a CPA, the licensed or certified agency must maintain the license of the foster family home and provide support services to the foster parents. The department will only place and pay for services with an agency with which the department has a contract. The agency must provide payment to the foster family in accordance with this chapter.~~

~~(4) The department requires that private agencies bringing children from other countries for adoption remain financially responsible for the child's placement costs if the adoption is not finalized, disrupts prior to finalization, or until the child reaches age eight-  
een.) The department must monitor CPAs' compliance with their contract. If a CPA is found out of compliance with their contract, DCYF:~~

~~(1) Contracts managers must follow the sanctions included in the contract with the department and the CPA.~~

~~(2) Caseworkers must:~~

~~(a) Notify the fiduciary to stop agency service fee payments if the department does not receive the children's or youth's reports in the time frames outlined in the contract; and~~

~~(b) Inform their regional CPA lead when there are ongoing problems with reports or the CPA.~~

#### **FOSTER CARE RATE ASSESSMENT LEGAL BASIS, PURPOSE, AND DEFINITIONS**

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

~~**WAC 110-50-0400 ((What kinds of financial support are available to licensed foster care providers?)) Legal basis for the foster care program.**~~ ((In addition to medical assistance and other services that may be provided to meet the specific needs of a foster child, the department provides licensed foster parents with a monthly foster care maintenance payment. This payment is for the benefit of the child.)) The legal basis for the foster care program is RCW 74.13.031, which authorizes the department to provide foster care placement services.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

~~**WAC 110-50-0410 ((What is the purpose of the foster care maintenance payment?)) Purpose.**~~ ((The purpose of the foster care maintenance payment is to assist licensed foster parents in meeting the needs of their foster child. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments (levels 2, 3 and 4) which are paid to foster parents who care for children with varying degrees of physical, mental,

~~behavioral or emotional conditions that require increased effort, care or supervision that are above the needs of a typically developing child.)~~ The monthly foster care maintenance payment was established to assist licensed or certified foster parents, which includes licensed relatives and suitable persons, in meeting the needs of the children or youth placed in their care. The payment is for the benefit of the children or youth.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0420** (~~What is the legal basis for the foster care program?~~) Definitions for foster care rate assessment (FCRA). ((RCW 74.13.020 authorizes the department to provide foster care placement services.)) The following definitions apply to foster care rate assessments (FCRA):

"Behavior rehabilitation services" or "BRS" means a temporary wrap around support and treatment program for youth with extreme, high level service needs, used to safely stabilize them and assist them in achieving a permanent plan or less intensive service.

"Child placing agency" or "CPA" means an agency licensed to place children or youth for foster care or adoption.

"Department" or "DCYF" means the department of children, youth, and families.

"Foster care" means the placement of children or youth by DCYF or licensed child placing agencies in homes or facilities licensed or certified pursuant to chapter 74.15 RCW or in homes or facilities that are not required to be licensed pursuant to chapter 74.15 RCW.

"Foster home" or "foster family home" means individuals licensed to regularly provide a 24-hour care in their home to children or youth.

"Licensed health care provider" means a medical doctor (MD), doctor of osteopathy (DO), doctor of naturopathy (ND), physician's assistant (PA), or an advanced registered nurse practitioner (ARNP).

"Licensing division" or "LD" means the division of the department of children, youth, and families that licenses and monitors foster homes, child placing agencies, and licensed group care facilities under the authority of chapter 74.15 RCW.

"Relatives" means the same as defined in RCW 13.36.020(5), described in RCW 74.15.020(2), or caregivers of Indian children or youth who are defined by tribal code or custom as relatives or extended family.

"Suitable persons" means nonrelatives with whom the child or youth, or the child's or youth's family, has a preexisting relationship; who has completed all required criminal history background checks and otherwise appears to be suitable and competent to provide care for the child or youth, and with whom they have been placed pursuant to RCW 13.34.130.

## REIMBURSEMENT

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0430** (~~(What definitions apply to the foster care program?)~~) Financial requirements of the department. ((The following definitions are important:

**"Alcohol affected infant"** means a child age birth through twelve months who was exposed to alcohol in utero and may demonstrate physical, behavioral, or cognitive signs that may be attributed to alcohol exposure.

**"Behavior rehabilitation services"** (BRS) is a comprehensive program of positive behavioral support and environmental structure in a supervised group or family living setting. Resources are designed to modify a child's behavior or to appropriately care for a child's intensive medical condition. Services are tailored to each client's needs and offered in the least restrictive setting possible.

**"Child placing agency"** means a private licensed or certified agency that places a child or children for temporary care, continued care, or for adoption.

**"Children's administration"** (CA) means the cluster of programs within the department of social and health services responsible for the provision of child welfare, child protective, child care licensing, and other services to children and their families.

**"Crisis residential center"** (CRC) means a secure or semi-secure facility established under chapter 74.13 RCW.

**"Department"** means the department of social and health services (DSHS).

**"Dependency guardian"** means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to RCW 13.34.232 for the limited purpose of assisting the court in the supervision of the dependency.

**"Division of children and family services"** (DCFS) is the division of children's administration that provides child welfare, child protective, family reconciliation, and support services to children in need of protection and their families.

**"Division of licensed resources"** (DLR) is the division of children's administration responsible for licensing or certifying child care homes and facilities under the authority of chapter 74.15 RCW.

**"Drug affected infant"** means a child age birth through twelve months who was exposed to drugs or substances in utero and demonstrates physical, behavioral, or cognitive signs that can be attributed to exposure to drugs or substances.

**"Early and periodic screening, diagnosis and treatment"** (EPSDT), also known as "healthy kids," is a federal program for preventive health care for children and teens served by medicaid. The physical/well child examination helps find health problems early and enables the child to receive treatment for concerns identified in the examination.

~~"Foster care" means twenty-four-hour per day temporary substitute care for the child placed away from the child's parents or guardians and for whom the department or a licensed or certified child placing agency has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, licensed group homes, emergency shelters, staffed residential facilities, and preadoptive homes, regardless of whether the department licenses the home or facility and/or makes payments for care of the child.~~

~~"Foster care services" for the department include:~~

- ~~(1) The determination of needs of the child;~~
- ~~(2) The determination of need for foster care;~~
- ~~(3) The placement of the child in the type of foster care setting that best meets the child's needs;~~
- ~~(4) The referral of a child to a private child placement agency or institution to meet the child's specific needs;~~
- ~~(5) Medical services according to the rules of the department's medical program;~~
- ~~(6) Reimbursement for the care of a child in a licensed family foster home;~~
- ~~(7) The purchase of care from a licensed private child placing agency, behavioral rehabilitation services provider, or maternity home;~~
- ~~(8) Supervision of the foster care placement by direct supervision through departmental social work services; or indirect supervision through evaluation of periodic reports from private child placing agencies, rehabilitation services providers, or maternity homes with which the department has contractual arrangements.~~

~~"Foster home or foster family home" means person(s) regularly providing care on a twenty-four-hour basis to one or more children in the person's home.~~

~~"Group care" means a twenty-four-hour facility licensed or certified under chapter 388-148 WAC for more than six children. The facility provides the basic needs for food, shelter, and supervision. The facility also provides therapeutic services required for the successful reunification of children with the children's family resource or the achievement of an alternate permanent living arrangement.~~

~~"Independent living services" means the program services and activities established and implemented by the department to assist youth sixteen years or older in preparing to live on their own after leaving foster care.~~

~~"Overpayment" means any money paid by the department for services or goods not rendered, delivered, or authorized or where the department paid too much for services or goods or services rendered, delivered, or authorized.~~

~~"Regional support network" is an administrative body which oversees the funding for provision of public mental health services.~~

~~"Relative" means a person who is related as defined in RCW 74.15.020 (2) (a).~~

~~"Responsible parent" means a birth parent, adoptive parent, or stepparent of a dependent child or a person who has signed an affidavit acknowledging paternity that has been filed with the state office of vital statistics.~~

~~"Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally~~



authorized residence and, as a result, lives outdoors or in another unsafe location not intended for use as housing.

~~"Staffed residential home" means a licensed home providing twenty-four hour care for six or fewer children or expectant mothers. The home may employ staff to care for children or expectant mothers.~~

~~"Shelter care" means the legal status of a child at entry in foster care prior to a disposition hearing before the court.~~

~~"Vendor" means an individual or corporation that provides goods or services to or for clients of the department and that controls operational decisions.)~~ The department must:

- (1) Pay for placements and service plans they have approved.
- (2) Provide final approval for determining initial and ongoing eligibility for financial support.
- (3) Maintain oversight of placements and payments.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

~~WAC 110-50-0440 ((What method does the department use to determine what foster care rate will be paid for a foster child?))~~ **Foster care maintenance payment and standardized assessment tool.** ((The department uses a standardized assessment tool, the foster care rate assessment, to determine the foster care rate that will be paid on behalf of the child. The tool assesses the needs of the child and the foster parent's ability and time required to meet those needs.)) (1) All children or youth placed in foster care will receive the basic foster care maintenance payment for their age category to help cover the cost of food, clothing, shelter, and personal incidentals.

(a) The department must pay foster care maintenance payments to individuals:

(i) That are licensed or certified foster parents when children or youth are placed in their home;

(ii) Identified by the tribe when they:

(A) Take placement of children or youth; and

(B) Meet the licensing requirements of their tribe.

(b) Residing out of Washington state, when:

(i) They take placement of a Washington state child or youth;

(ii) They meet the licensing requirements of the state they reside in, per WAC 110-50-0460; and

(iii) Approval is received from both the sending and receiving state offices, per WAC 110-50-0100.

(2) The amount of the monthly foster care maintenance payment is determined using a standardized assessment tool that assesses children's and youth's needs in the following areas:

(a) Physical health;

(b) Mental health; and

(c) Behavioral needs.

(3) The standardized assessment tool must be completed to determine the rate of the foster care maintenance payment:

(a) Within 40 calendar days of the children's or youth's placement being documented in a licensed or certified foster home or relative or suitable persons home;

(b) At least every six months after the first assessment; and

(c) When there is a significant change in circumstances for children or youth.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

~~WAC 110-50-0450 ((What are the essential features of the foster care rate assessment system?)) Using the standardized assessment tool to determine foster care reimbursement levels. ((The foster care rate assessment system includes the following essential features:~~

~~(1) Foster care maintenance payments are based on foster parent time and the nature of activities needed to meet the needs of the child.~~

~~(2) A standardized assessment tool is used for all children.~~

~~(3) The assessment tool is completed jointly by foster parent and social worker or a rate assessment specialist.~~

~~(4) Assessments are updated periodically, in accordance with WAC 388-25-0032.~~

~~(5) The assessment process is automated.)) The basic maintenance payment level 1 is paid to foster parents depending upon the ages of the children and youth. In addition, there are six levels of supplemental payments paid to foster parents who care for children or youth with varying degrees of physical, mental health, or behavioral needs that require increased effort, care, or supervision. The standardized assessment tool must be used to determine the appropriate level for payment based on available information regarding children's or youth's needs, regardless of the foster home they are placed in. Children or youth will be assessed and paid at the highest level they qualify for. Children or youth assessed at:~~

~~(1) Level 1: Receive the basic foster care maintenance rate. The payment is based on the child's or youth's needs, who are developing comparably to children or youth in the same age range. The payments are based on three age categories:~~

~~(a) Birth to five years old;~~

~~(b) Six to 11 years old; or~~

~~(c) Twelve to 20 years old.~~

~~(2) Level 2: Require more support from foster parents due to the youth being 12 years of age or older. The payment is based on the youth's needs, who are developing comparably to youth in the same age range.~~

~~(3) Level 3: Are diagnosed by a licensed health care provider with at least one chronic medical condition that requires more support from foster parents due to the severity of their needs. Children and youth in this level only have chronic medical conditions and do not have other conditions that would put them in a different level of care.~~

~~(4) Level 4: Are diagnosed by a licensed health care provider with a developmental disability that requires more support from foster parents due to the severity of their behaviors and needs. Children and youth in this level only have a diagnosed developmental disability and do not have other conditions that would put them in a different level of care.~~

~~(5) Level 5: Are diagnosed by a licensed health care provider with a developmental disability and have at least one chronic health condition. Children or youth in this level will not have any other conditions that would put them in a different level of care.~~

~~(6) Level 6: Have a current mental health diagnosis by a licensed health care provider or current prescription medication to assist with their mental health diagnosis.~~

(7) Level 7: Have complex mental health needs and need more support to help stabilize and keep the child or youth safe.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0460** (~~(How does the foster care rate assessment work?)~~) **Reimbursement to foster families that reside in or move to another state.** ((The foster care rate assessment is a two-step process that includes the participation of the child's foster parent.

~~(1) Step one: The child's social worker or designated rate assessment specialist will meet with the foster parent in person or telephonically to jointly complete the standardized assessment form.~~

~~(2) Step two: After step one has been completed, the child's social worker or designated rate assessment specialist enters the information from the assessment into the computer and, based on the responses to the questions in the standardized assessment, the rate assessment software program automatically calculates the foster care rate that will be paid on behalf of the child.)~~ Department caseworkers must:

(1) Arrange with other states or local social service agencies to license and supervise the homes and placements when foster families reside in or move to another state, per chapter 26.34 RCW.

(2) Obtain the reimbursement rates from receiving states and DCYF will reimburse at their rate, unless the Washington state rate is approved.

(3) Authorize payments to the out-of-state foster homes after a copy of their foster family home license is received.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0470** (~~(When may the department or a child placing agency authorize foster care placement?)~~) **Payments to relative caregivers and suitable persons.** ((The department or a child placing agency may place a child in foster care only under the following circumstances:

~~(1) The child has been placed in temporary residential care after having been taken into custody under chapter 13.32A RCW, Family Reconciliation Act, to alleviate personal or family situations that present an imminent threat to the health or stability of the child or family.~~

~~(2) The child, the child's parent(s), or the department has filed a petition requesting out-of-home placement for the child pursuant to RCW 13.32A.120 or 13.32A.140:~~

~~(a) Placement has been approved after a fact finding hearing under RCW 13.32A.170; or~~

~~(b) A child has been admitted directly to placement in a crisis residential center (CRC), and the parents have been notified of the child's whereabouts, physical and emotional condition, and the circumstances surrounding the child's placement.~~

~~(3) A child has been placed in shelter care under one of the following circumstances:~~

~~(a) The child has been taken into custody by law enforcement or through a hospital administrative hold and placed in shelter care; or~~

~~(b) A petition has been filed with the juvenile court alleging that the child is dependent; that the child's health, safety, and welfare will be seriously endangered if not taken into custody; and the juvenile court enters an order placing the child in shelter care (see RCW 13.34.050 and 13.34.060).~~

~~(4) A juvenile court has made a determination of dependency for a child and has issued a disposition order under RCW 13.34.130 that removes the child from the child's home.~~

~~(5) A juvenile court has terminated the parent and child relationship as provided in chapter 13.34 RCW and has placed the custody of the child with the department or with a licensed or certified child placing agency.~~

~~(6) The child's parent(s) or persons legally responsible to sign a consent for voluntary placement that demonstrates agreement with an out-of-home placement as described in RCW 74.13.031.) Relative caregivers and suitable persons:~~

~~(1) Licensed or certified as family foster homes under chapter 74.15 RCW will receive foster care maintenance payments on behalf of children or youth. If the family is eligible for a nonneedy grant for the same child or youth through the department of social and health services (DSHS) community services office (CSO), they must either receive foster care maintenance payments or nonneedy grants, but not both.~~

~~(2) Not licensed or certified for foster care, may apply for the nonneedy grant through the DSHS CSO.~~

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0480** (~~**(What factors are considered in the foster care rate assessment?)**~~) **Starting foster care maintenance payments.** ((The assessment tool considers the average number of hours, beyond those expected for a typically developing child of the same age, the foster parent spends in:

~~(1) Caring and/or advocating for the child to meet the child's physical and behavioral needs;~~

~~(2) Participating in parenting activities related to the child's physical or emotional/behavioral therapeutic plan;~~

~~(3) Engaging in parenting activities related to supervising and supporting the educational needs of the child;~~

~~(4) Participating in parenting activities related to scheduling, arranging, and supervising activities, such as medical and dental appointments for the child, visits between the child and his or her parents and/or siblings, or other school or recreational activities;~~

~~(5) Repairing, cleaning or replacing household items, over and above normal repair, due to the child's chronic physical problems or destructive behavior; and~~

~~(6) Preparing the child to transition back to the child's parents or to an adoptive or other foster care placement.) The department pays foster care maintenance payments for:~~

~~(1) Children and youth beginning on the date the department places them in a licensed or certified foster home.~~

~~(2) Each night children or youth reside in foster homes.~~

AMENDATORY SECTION (Amending WSR 19-16-094, filed 8/1/19, effective 9/1/19)

**WAC 110-50-0490** (~~((How often do the foster parent and caseworker meet to complete the rate assessment?))~~) **Terminating foster care maintenance payments.** ((The caseworker or designated rate assessment specialist will meet with the foster parent in person or telephonically to complete the assessment:

~~(1) Within thirty days of the child's placement in the foster parent's home;~~

~~(2) At least every six months after the first assessment, except under limited circumstances that serve the best interests of the child; and~~

~~(3) When there is a significant change in circumstances for the child or in the foster parent's ability or time required to meet the child's needs.)~~) **The department must terminate foster care maintenance payments:**

(1) On the day before the child or youth leaves the foster home or facility. The department does not pay for the last day they are in a foster home or facility.

(2) For children or youth in foster care, effective the date they:

(a) No longer reside in or need foster care;

(b) Reach the age of 18, unless they meet the criteria in RCW 13.34.267 and are participating in the extended foster care (EFC) program; or

(c) Are no longer eligible for EFC and the:

(i) Dependency action is dismissed; or

(ii) Voluntary placement agreement (VPA) has expired.

(3) For children or youth in a behavior rehabilitation services (BRS) program, effective the day they start BRS.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0500** (~~((What are the reimbursement levels?))~~) **Foster parents' level notification.** ((The amount of foster care maintenance payments may change slightly from year to year. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments that are paid to foster parents who care for children with varying degrees of physical, mental, behavioral, emotional and/or intellectual conditions that require increased effort, care or supervision. The levels of payments are as follows:

~~(1) **Level 1:** Children assessed at this level receive the basic foster care maintenance rate. The payment is based on the time typically spent by a foster parent to meet the needs of a child, who is developing comparably to children in the same age range. The payments are based on three age categories: birth to five years old, six to eleven years old, and twelve to eighteen years old.~~

~~(2) **Level 2:** Children assessed at this level require the foster parent's increased attention, time and supervision, beyond that required to meet the child's basic or routine needs, to address specific~~

physical, mental, behavioral, emotional and/or intellectual challenges.

~~(3) Levels 3 and 4: Children assessed at these levels have the highest needs for attention and care. These children require significantly more time from the foster parent because of the severity of their issues. These children often will be participating in more than one treatment program, and may need to participate in treatment in the foster parent's home. A child assessed at level 3 or 4 may have serious medical, behavioral or psychiatric issues or behaviors that require a safety plan.))~~ Once the rate assessment has been completed, foster parents will receive written notification from the department notifying them of:

(1) The amount of the monthly foster care maintenance payment that will be paid to them on behalf of children or youth residing in their home;

(2) Their right to request a department review of the foster care rate level based on information that was not known or provided to the department; and

(3) The process to request a department review.

#### DEPARTMENT REVIEW OF FOSTER CARE MAINTENANCE RATE

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0510** ~~((Can the child be assessed at a different level, depending on the foster home?))~~ Requesting a department review of the foster care rate level. ~~((The assessment is based on both the child's needs and the foster parent's ability and time required to meet those needs. It is possible that a child would be assessed at a different rate in one home than in another, depending on the foster parent's abilities or circumstances as well as the resources and support services available to the child and foster family.))~~ (1) Foster parents must make a written request for the department to review their foster care rate level.

(2) Department review requests must:

(a) Be received by the department within 20 calendar days of the date of the letter informing the foster parent of their foster care rate level. If a request is not made within 20 days, the department will not review the foster care rate level.

(b) Include a statement explaining why the foster parent believes the rate level is incorrect. The foster parent must provide any additional information that was not known to the department when the rate was determined.

(c) Be sent to the individual and address identified in the department's letter informing the foster parent of the rate level for the child or youth.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0520** (~~((Can the assessment change if the child's needs change?))~~) Department review of the foster care rate level. ((The child will always receive at least the basic rate (level 1) for the child's age category. However, the child may be assessed at level 2, 3, or 4, as the child's needs change or the circumstances of the foster parents change.)

~~For example:~~ In cases where the child's needs decrease or the time required of the foster parent to meet the child's needs decreases, the standardized assessment may assess the child at a lower rate. For example, on a reassessment a child might be assessed at level 2, when the child's previous rate had been at level 3. In cases where the child's needs or the demands on the foster parent increase, the standardized assessment may assess the child at a higher level.)) Department management employees who have not administered the standardized assessment tool for the foster parents requesting the review, must:

(1) Conduct the department review of the foster care rate level and consider if:

(a) Additional information provided by the foster parent, as authorized in WAC 110-50-0510, is relevant to the assessment; and

(b) Information was accurately documented into the standardized assessment tool.

(2) Complete the review within 14 calendar days of receiving the request for review.

(3) Not consider information about any children or youth outside the standardized assessment tool.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0530** (~~((How will the foster parent be notified of the rate the child will receive?))~~) Foster parents' notification of department review. ((The foster parent will receive a written letter and payment plan, generated by the department's foster care rate assessment computer program, which will notify the foster parent of

~~(1) The amount of the monthly foster care maintenance payment that will be paid on behalf of the child;~~

~~(2) The right to review of the assessment and;~~

~~(3) How to exercise the right of review.))~~ Once the review is complete, the department must:

(1) Send foster parents a letter notifying them that the department:

(a) Upholds the results of the standardized rate assessment tool;  
or

(b) Agrees the rate was wrongly calculated and will adjust the rate to the proper level.

(2) Include information in the letter to request an administrative hearing, per chapter 110-03 WAC, if the department upholds the results of the rate assessment.

## ADMINISTRATIVE HEARINGS

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0540** (~~(Can a foster parent challenge the rate assessment?)~~) **Foster parents' right to appeal.** (~~(A foster parent, acting on behalf of the foster child, may request a review of the rate assessment for the child.)~~) (1) Foster parents have the right to an administrative hearing, per chapter 110-03 WAC, to contest the following department's failure to:

(a) Respond to the request within the time frames in WAC 110-50-0520.

(b) Take into consideration new information related to the child or youth provided by the foster parents.

(c) Follow the standardized assessment process.

(2) To request an administrative hearing, the foster parent must submit a request in writing for an administrative hearing and send the request to the office of administrative hearings (OAH). The request must be received by OAH within 90 calendar days of receipt of the notification of the department's decision on review, unless good cause for a later request is established under chapter 110-03 WAC.

(3) Foster parents do not have a right to request an administrative hearing to challenge or dispute:

(a) Established foster care rates;

(b) The standardized assessment tool; or

(c) The standardized procedure used to determine the rate.

AMENDATORY SECTION (Amending WSR 19-16-094, filed 8/1/19, effective 9/1/19)

**WAC 110-50-0550** (~~(How does a foster parent seek a department review of the rate assessment?)~~) **Scope of administrative hearing.** (~~(1) The foster parent must make a written request for department review of the assessment.~~

~~(2) The request must be received by the department within twenty calendar days of the date of the letter informing the foster parent of the rate assessed for the child. If a request is not made within twenty days, the department will not review the assessment.~~

~~(3) The request must include a statement explaining why the foster parent believes the assessed rate is incorrect. The foster parent may provide additional information relevant to the questions asked on the foster care rate assessment standardized form.~~

~~(4) The request must be sent to the individual and address identified in the letter informing the foster parent of the rate assessed for the child.)~~ When making a determination during administrative hearings, administrative law judges (ALJ):

(1) May only consider the following if the:

(a) Standardized assessment process was not followed;



(b) Information obtained for the initial rate determination was not documented on the standardized assessment tool; or

(c) New information provided by the foster parents for the department review was not accurately documented on the standardized assessment tool.

(2) Must apply the rules in this chapter during the administrative hearing.

(3) Must not:

(a) Consider:

(i) Information about children or youth:

(A) Outside the standardized assessment tool;

(B) That was not provided to the department at the time of the:

(I) Initial or ongoing completion of the standardized assessment tool; or

(II) Department review requested by the foster parents.

(ii) Challenges to the:

(A) Established foster care rates;

(B) Standardized assessment tool; or

(C) The foster care rate assessment program.

(b) Make a determination that conflicts with a properly completed standardized assessment tool.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 110-50-0260	What steps must the department take when a child whose case management responsibility remains with the department is placed in a home certified by a CPA?
WAC 110-50-0270	What activities must a child placing agency provide in order to receive payment from the department?
WAC 110-50-0560	What does the department consider in reviewing the request?
WAC 110-50-0570	How does the foster parent learn about the department's decision on review?
WAC 110-50-0580	To whom does the department make payment for foster care?
WAC 110-50-0590	How does the foster parent appeal the department's decision on review?
WAC 110-50-0600	What law and rules govern the administrative law judge?
WAC 110-50-0610	What issues may be decided by the administrative law judge?
WAC 110-50-0620	What are the department's expectations for foster care providers to whom the department makes reimbursement for services?

- WAC 110-50-0630 What are the department's responsibilities regarding financial assistance to support children in the department's foster homes and child placing agency foster homes?
- WAC 110-50-0640 What is the effective date for payment of foster care?
- WAC 110-50-0650 What is the beginning date for payment of foster care?
- WAC 110-50-0660 What is the effective date for termination of foster care payments?
- WAC 110-50-0670 What are the department's general standards for family foster care reimbursement?
- WAC 110-50-0680 When may the department authorize a clothing allowance for a child in out-of-home care?
- WAC 110-50-0690 May the department consider foster care payments to the foster family in determining eligibility for public assistance?
- WAC 110-50-0700 What are the department's standards for making foster care payment to a relative providing care to the child served by department?
- WAC 110-50-0710 How does the department make reimbursement for foster care for a child served by the department who moves out-of-state with the foster family?
- WAC 110-50-0720 What payment procedures must the department follow for children placed across state borders?
- WAC 110-50-0730 What limitations exist on administrative hearings regarding foster care payments?

## WSR 23-24-041

## PERMANENT RULES

## DEPARTMENT OF ECOLOGY

[Order 21-02—Filed November 30, 2023, 8:47 a.m., effective December 31, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To implement chapter 70A.60 RCW, Hydrofluorocarbons emissions reduction, the department of ecology (ecology) is adopting amendments to chapter 173-443 WAC, Hydrofluorocarbons (HFCs); and chapter 173-455 WAC, Air quality fee rule.

The adopted rules:

- Establish maximum global warming potential thresholds for HFCs used in new stationary refrigeration and air conditioning equipment, small cans of refrigerant primarily used for automotive air conditioner recharge, and certain nonessential consumer aerosol product such as party streamers, air horns, and noisemakers.
- Establish a refrigerant management program (RMP) with registration, leak inspection, leak repair, recordkeeping, and reporting requirements for owners or operators of large stationary refrigeration and air conditioning systems.
- Establish required service practices for technicians who service stationary refrigeration and air conditioning systems.
- Amend product labeling and disclosure requirements.
- Establish new labeling and recordkeeping requirements.
- Update chapter 173-443 WAC to reflect other changes in the law.
- Revise the title of the chapter.
- Establish fees and a process for fee updates to cover the costs of implementing and enforcing the RMP.

Citation of Rules Affected by this Order: New WAC 173-443-065, 173-443-075, 173-443-085, 173-443-095, 173-443-105, 173-443-115, 173-443-125, 173-443-135, 173-443-145, 173-443-155, 173-443-165, 173-443-175, 173-443-185, 173-443-195, 173-443-205, 173-443-215, 173-443-225, 173-443-235, 173-443-245, 173-443-255 and 173-443-265; repealing WAC 173-443-070, 173-443-080, 173-443-090, 173-443-100 and 173-443-110; and amending WAC 173-443-010, 173-443-020, 173-443-030, 173-443-040, 173-443-050, and 173-443-060.

Statutory Authority for Adoption: Chapter 70A.60 RCW.

Adopted under notice filed as WSR 23-15-048 [and 23-18-054] on July 13, 2023 [and August 31, 2023].

Changes Other than Editing from Proposed to Adopted Version: Refer to the concise explanatory statement for changes from the proposed rule to the adopted rule in the following sections:

WAC 173-443-020 Applicability:

- Subsections (4) and (6).

WAC 173-443-030 Definitions and 173-443-040 List of prohibited substances:

- Subsections (1), (2), and (3).

WAC 173-443-050 Exemptions applicable to WAC 173-443-040, Tables 1 through 3:

- Subsections (1), (2), and (3).

WAC 173-443-065 Prohibitions and additional requirements for new or retrofit refrigeration equipment listed in Table 2:

- Subsections (2) and (3).

WAC 173-443-075 Prohibitions and additional requirements for new or retrofit air conditioning equipment listed in Table 3:

- Subsection (2).

WAC 173-443-105 Refrigerant management program (RMP) purpose and applicability:

- Subsections (1), (2), and (3).

WAC 173-443-115 Registration requirements for facilities with refrigeration or air conditioning systems:

- Subsections (1), (2), (3), and (6).

WAC 173-443-125 Registration requirements for refrigerant wholesalers, distributors, and reclaimers:

- Subsections (1) and (2).

WAC 173-443-135 Implementation fees for facilities with refrigeration or air conditioning systems:

- Subsections (1), (2), (3), and (4).

WAC 173-443-145 Leak detection and monitoring requirements:

- Subsections (1), (2), (3), (4), and (7).

WAC 173-443-155 Leak rate thresholds and notification requirements:

- Subsection (3).

WAC 173-443-165 Leak repair requirements:

- Subsection (7).

WAC 173-443-175 Requirements to prepare and implement a retrofit or retirement plan:

- Subsection (1).

WAC 173-443-185 Reporting requirements:

- Subsection (3).

WAC 173-443-195 Recordkeeping requirements:

- Subsection (1).

WAC 173-443-205 Required service practices:

- Introductory sentence.

WAC 173-443-215 Reporting requirements for refrigerant wholesalers, distributors, and reclaimers:

- Subsections (1) and (2).

WAC 173-443-225 Recordkeeping requirements for refrigerant wholesalers, distributors, and reclaimers:

- Subsections (1) and (2).

A final cost-benefit analysis is available by contacting Linda Kildahl, Department of Ecology, Air Quality Program, P.O. Box 47600, phone 360-706-3038, Washington relay service or TTY call 711 or

877-833-6341, email linda.kildahl@ecy.wa.gov, website <https://apps.ecology.wa.gov/publications/summarypages/2302111.html>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 21, Amended 6, Repealed 5.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2023.

Laura Watson  
Director

OTS-4615.6

**Chapter 173-443 WAC**  
**HYDROFLUOROCARBONS (HFCs) AND OTHER FLUORINATED GREENHOUSE GASES**

AMENDATORY SECTION (Amending WSR 21-01-085, filed 12/10/20, effective 1/10/21)

**WAC 173-443-010 Policy and purpose.** (1) Ecology's policy under chapters (~~(70A.15)~~) 70A.60 and 43.21A RCW is to provide for the systematic control of air pollution from air contaminant sources. Ecology's policy under chapter (~~(70A.45)~~) 70A.60 RCW is to reduce the emissions of hydrofluorocarbons (HFCs) and other fluorinated greenhouse gases.

(2) This chapter establishes requirements for the transition to less damaging (~~(HFCs or suitable)~~) refrigerants and refrigerant substitutes in the air conditioning and refrigeration, aerosol propellant, and foam end-use categories in Washington in a manner similar to rules adopted under EPA's Significant New Alternative Policy (SNAP) program and refrigerant management and HFC rules adopted (~~(or proposed for adoption)~~) by other states around the country (~~(RCW 70A.45.080)~~).

AMENDATORY SECTION (Amending WSR 21-01-085, filed 12/10/20, effective 1/10/21)

**WAC 173-443-020 Applicability.** (~~((1))~~) The requirements of this chapter apply to (~~(any)~~):

(1) Person who offers for sale, leases, rents, installs, or otherwise causes to enter into Washington commerce any new product or equipment that contains ~~((7))~~ or uses ~~((7, or will use HFCs or other substitutes for an end-use))~~ a prohibited substance listed in WAC 173-443-040, Table 1;

(2) A person who offers for sale, leases, rents, installs, or otherwise causes to enter into Washington commerce any new refrigeration or air conditioning system that contains or uses a prohibited substance listed in WAC 173-443-040, Tables 2 and 3, respectively;

(3) A person who sells, offers for sale, or purchases a small container of refrigerant or a nonessential consumer product that contains or uses a prohibited substance listed in WAC 173-443-040, Table 4;

(4) A person who owns or operates a facility that has a refrigeration or air conditioning system with a full charge of 50 or more pounds and that uses a refrigerant with a global warming potential (GWP) of 150 or more;

(5) A person who installs, repairs, maintains, services, replaces, or disposes of a refrigeration or air conditioning system; and

(6) A person who wholesales, distributes, or reclaims a refrigerant with a GWP of 150 or more.

~~((2) Labeling requirements.~~

~~(a) The labeling requirements in WAC 173-443-070 apply to manufacturers of products or equipment that contains, uses, or will use HFCs as of July 28, 2019, or to manufacturers that introduce such products or equipment into Washington commerce after that date.~~

~~(b) A manufacturer may apply the applicability determination in (a) of this subsection to separate divisions or similar segments of its business based on the end-use that products associated with each division or similar segmentation are intended to serve.)~~

AMENDATORY SECTION (Amending WSR 21-01-085, filed 12/10/20, effective 1/10/21)

**WAC 173-443-030 Definitions and acronyms.** The definitions in this section apply throughout this chapter unless the text clearly indicates otherwise.

"Aerosol propellant" means a liquid or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or other material from the same self-pressurized container or from a separate container.

"Air conditioning" means the process of treating air to meet the requirements of a conditioning space by controlling its temperature, humidity, cleanliness, or distribution. "Air conditioning" includes the use of chillers, except for purposes of applying a maximum GWP threshold for new air conditioning equipment under WAC 173-443-040, and the use of heat pumps.

"Air conditioning equipment" or "air conditioning system" or "air conditioning appliance" means the piece(s) of stationary equipment used to provide air conditioning. It is a combination of interconnected refrigerant-containing parts constituting one closed circuit in which a refrigerant is circulated for the purpose of extracting heat. "Air conditioning equipment" or "air conditioning system" or "air conditioning appliance" includes, but is not limited to, room air conditioners and residential and other dehumidifiers; ducted central air

conditioners and heat pumps; nonducted air conditioners (both mini and multisplit); packaged roof top units; water source and ground source heat pumps; and remote condensing units used for comfort cooling. "Air conditioning equipment" or "air conditioning system" does not include mobile air conditioning systems, including those used in motor vehicles, rail and trains, aircraft, watercraft, recreational vehicles, recreational trailers, and campers. Where an air conditioning system is used for more than one application or end-use, the applicability of the prohibitions set forth in WAC 173-443-040 is determined by the application or end-use for which the majority of the operating capacity is used.

"Applicant" means:

(a) Any person who offers to sell, leases, rents, installs, uses, or otherwise causes to enter into Washington commerce any new refrigeration or air conditioning equipment that contains or uses a prohibited substance listed in WAC 173-443-040 (2) or (3) and who applies for a variance under WAC 173-443-095; or

(b) Any person who owns or operates a facility that has a refrigeration or air conditioning system that is subject to the refrigerant management program and who applies for an exemption under WAC 173-443-235.

"Automatic leak detection system" means a calibrated device using continuous monitoring for the purpose of detecting leakage of refrigerants that alerts the operator upon detection of a leak, and may be either:

(a) A direct system that automatically interprets the presence in air of refrigerant leaked from a refrigeration system;

(b) An indirect system that automatically interprets measurements (e.g., temperature or pressure) within a refrigeration system that indicates a refrigerant leak in refrigerated cases and other locations in the system.

"Bunstock" or "bun stock" means a large solid box-like structure formed during the production of polyurethane, polyisocyanurate, phenolic, or polystyrene insulation.

"C" means ((Centigrade)) Celsius.

(("Centrifugal chiller" means air conditioning equipment that utilizes a centrifugal compressor in a vapor-compression refrigeration cycle typically used for commercial comfort air conditioning. Under this definition, a centrifugal chiller is a chiller intended for comfort cooling and does not include chillers for industrial process cooling and refrigeration.))

"Capital cost" means an expense incurred in the production of goods or in rendering services including, but not limited to, the cost of engineering, design, environmental consulting, purchase and installation of components or systems and instrumentation, contractor and construction fees, licensing fees, and financing.

"Certified reclaimer" means a person who is a certified reclaimer in accordance with 40 C.F.R. § 82.164.

"Certified refrigerant recovery or recycling equipment" has the same meaning as set forth in 40 C.F.R. § 82.152.

"Certified technician" means a person who holds a current, valid, and applicable certificate in accordance with 40 C.F.R. § 82.40 or 82.161.

"Change in ownership" means the transfer of a legal ownership interest in a facility with a refrigeration or air conditioning system that is subject to this chapter.

"Chiller" means a water or heat transfer fluid chilling equipment package custom built in place or a factory-made and prefabricated assembly of one or more compressors, condensers and evaporators, with interconnections and accessories including controls, designed for the purpose of cooling or heating water or a heat transfer fluid. A chiller is a machine specifically designed to make use of a vapor compression cycle or absorption refrigeration cycle to transfer heat from a cold water or heat transfer fluid circulating system to the air, a heat transfer fluid, or other heat exchange media. Chillers can be water-cooled, air-cooled, or evaporatively cooled. Chillers include, but are not limited to, rotary chillers, centrifugal chillers, and positive displacement chillers, including reciprocating, scroll, and screw chillers. A chiller used for air conditioning purposes is considered air conditioning equipment except for purposes of applying a GWP threshold under WAC 173-443-040, Table 2. A chiller used for refrigeration in a retail food facility is considered an indirect type of "supermarket system." A chiller used for industrial process refrigeration is considered a type of "other refrigeration" application. Where a chiller is used for more than one application or end-use, the applicability of the prohibitions set forth in WAC 173-443-040 is determined by the application or end-use for which the majority of the operating capacity is used.

"Code" means a collection of letters, numbers, graphics, or symbols that translates into a form that conveys the information provided by a dedicated or existing product label, or that can convey a user or reader to that information through electronic means (such as a QR code).

"Cold storage warehouse" means a cooled facility designed to store meat, produce, dairy products, and other products that are delivered to other locations for sale to the ultimate consumer.

~~("Commercial refrigeration equipment" means equipment designed to store and display chilled or frozen goods for commercial sale including, but not limited to, stand-alone units, refrigerated food processing and dispensing equipment, remote condensing units, supermarket systems, and vending machines.)~~

"Comfort cooling" means the air conditioning equipment used to provide cooling in order to control heat and/or humidity in occupied facilities including, but not limited to, residential, office, and commercial buildings. Comfort cooling equipment includes, but is not limited to, chillers, commercial split systems, and packaged roof-top units.

"Commercial ice machine" means a nonresidential ice machine or ice maker used in a commercial establishment to produce ice artificially for consumer use including, but not limited to, a hotel, restaurant, or convenience store.

"Commercial refrigeration" means refrigeration equipment used in the retail food and cold storage sectors. Retail food equipment includes the refrigeration equipment found in supermarkets, convenience stores, restaurants, and other food service establishments. Cold storage includes the refrigeration equipment used to store meat, produce, dairy products, and other perishable goods.

"Component" means a part of a refrigeration or air conditioning system including, but not limited to, condensing units, compressors, evaporators, and receivers; and all of its connections and subassemblies, without which the refrigeration system will not properly function or will be subject to failures.



"Consumer" means the ultimate purchaser, recipient, or end-user of a product.

"Cumulative replacement" means the addition of or change in multiple components over time.

"Date of manufacture" means:

(a) For air conditioning and refrigeration equipment, the date displayed on the manufacturer's equipment label indicating the equipment's date of manufacture;

(b) For refrigeration and air conditioning equipment built up and completed on-site (field erected), the date that the refrigerant circuit was completed and initially filled with refrigerant; or

(c) For foam products imported into the state from outside the United States, the date the foam was originally manufactured, or the date of import if the original manufacture date is not known.

"Dedicated label" means a label adhered or attached to a product, or otherwise included with the product, that is designed to convey required information to the end-user of that product on the ((inclusion or)) use of ((substitutes)) substances associated with that product.

"EPA" means the U.S. Environmental Protection Agency.

"Ecology" means the department of ecology.

"End-use" means processes or classes of specific applications within industry sectors including, but not limited to, those listed in WAC 173-443-040.

"Equipment" means a collection of components assembled or manufactured to function together that contains at least one product, or that is in and of itself a product.

~~(("Existing product label" means a label adhered or attached to a product, such as a nameplate or sticker, or to the box or packaging enclosing the product that discloses the substitute contained, used, or to be used in the product.))~~

"F" means Fahrenheit.

"Facility" means any property, plant, building structure, stationary source, stationary equipment or grouping of stationary equipment or stationary sources located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right of way, and under common operational control, that includes one or more refrigeration systems subject to this chapter. Operators of military installations may classify such installations as more than a single facility based on distinct and independent functional groupings within contiguous military properties.

"Facility identification number" means a unique identification number provided by ecology for each facility with one or more refrigeration system(s) in operation pursuant to WAC 173-443-115.

"Flexible polyurethane" means a nonrigid polyurethane foam including, but not limited to, that used in furniture, bedding, and chair cushions.

"Foam" means a product with a cellular structure formed via a foaming process in a variety of materials that undergo hardening via a chemical reaction or phase transition.

"Foam blowing agent" means a substance that functions as a source of gas to generate bubbles or cells in the mixture during the formation of foam.

"Foam system" means a multipart liquid product that expands when mixed to form a foam.

~~(("HFC" means hydrofluorocarbon as the term is defined in RCW 70A.45.010.))~~

"Follow-up verification test" means a test conducted after an initial verification test and after the system has returned to normal operating characteristics and conditions in order to confirm that the repair was successful.

"Force majeure" means a sudden and unforeseeable event involving a clear danger, demanding action to prevent or mitigate the loss of, or damage to, life, health, property, or essential public services, arising from causes beyond the control of the applicant, which delays or prevents the performance of any obligation under this chapter, despite the applicant's best efforts to fulfill the obligation. This includes events where the local government, state, or federal government issues a declaration of emergency, which can include war, natural disasters, or pandemics. This does not include financial inability to comply if the financial hardship is caused by an event that is unrelated to the force majeure event or would otherwise exist in the absence of the force majeure event.

"Full charge" means the amount of refrigerant required in the refrigerant circuit for normal operating characteristics and conditions of a refrigeration system or refrigeration equipment, as determined by using one or a combination of the following four methods:

(a) Use of the equipment manufacturer's specifications of the full charge;

(b) Use of appropriate calculations based on component sizes, density of refrigerant, volume of piping, seasonal variances, and other relevant considerations;

(c) Use of actual measurements of the amount of refrigerant added to or evacuated from the refrigeration equipment, including for seasonal variances; or

(d) The midpoint of an established range for full charge based on the best available data regarding the normal operating characteristics and conditions for the system.

"Global warming potential," "GWP," "global warming potential value," or "GWP value" means 100-year GWP value as it appears in WAC 173-441-040, and if not contained in WAC 173-441-040, then the GWP value means the 100-year GWP value published by the Intergovernmental Panel on Climate Change (IPCC) in its Fifth Assessment Working Group 1 Report (AR5) (IPCC, 2013).

"Heat transfer fluid" means any gas or liquid used for the purpose of transmitting heat from one place to another.

"HFCs" or "hydrofluorocarbons" means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.

"Household refrigerators and freezers" means refrigerators, refrigerator-freezers, freezers, and miscellaneous household refrigeration ((appliances)) equipment intended for residential use. "Household refrigerators and freezers" does not include "household refrigerators and freezers - Compact," or "household refrigerators and freezers - Built-in."

"Household refrigerators and freezers - Built-in" means any refrigerator, refrigerator-freezer or freezer intended for residential use with 7.75 cubic feet or greater total volume and ((twenty-four)) 24 inches or less depth not including doors, handles, and custom front panels; with sides which are not finished and not designed to be visible after installation; and that is designed, intended, and marketed exclusively to be: Installed totally encased by cabinetry or panels that are attached during installation; securely fastened to adjacent

cabinetry, walls or floor; and equipped with an integral factory-finished face or accept a custom front panel.

"Household refrigerators and freezers - Compact" means any refrigerator, refrigerator-freezer or freezer intended for residential use with a total refrigerated volume of less than 7.75 cubic feet (220 liters).

"Ice rink" means a frozen body of water, hardened chemicals, or both including, but not limited to, professional ice-skating rinks and those used by the general public for recreational purposes.

"Industrial process refrigeration" means to cool or heat process streams at a specific location in manufacturing and other forms of industrial processes and applications such as chemical production, pharmaceutical, and petrochemical industries. This also includes equipment used in the generation of electricity and for large scale cooling of heat sources such as data centers and data servers. Industrial process refrigeration not using a chiller is considered a type of refrigeration equipment. Industrial process refrigeration using a chiller is considered a type of other refrigeration application. Where a chiller is used for more than one application or end-use, the applicability of the prohibitions set forth in WAC 173-443-040 is determined by the application or end-use for which the majority of the operating capacity is used.

"Integral skin polyurethane" means a self-skinning polyurethane foam including, but not limited to, that used in car steering wheels and dashboards.

"Leak rate calculation" means the rate at which a refrigeration or air conditioning system is losing refrigerant, measured between refrigerant charges or inspections. The leak rate is expressed in terms of the average percentage of the system's full charge lost on a monthly basis over the previous 12 months. The leak rate must be calculated using the 12-month rolling average method as follows:

- (a) Step 1. Take the sum of the pounds of refrigerant added to the system over the previous 365-day period;
- (b) Step 2. Divide the result of step 1 by the pounds of refrigerant the system normally contains at a full charge; and
- (c) Step 3. Multiply the result of step 2 by 100 to obtain a percentage.

$$\text{leak rate} = \frac{\text{pounds of refrigerant added over previous 365 day period}}{\text{pounds of refrigerant normally contained in the system at full charge}} \times 100\%$$

"Low temperature refrigeration system" means a commercial or industrial process refrigeration system that maintains food, beverages, or other items at temperatures at or below 32°F (0°C).

"MDI" means metered dose inhaler or medical dose inhaler.

"Manufacturer" ((means)) includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses HFCs or is an importer or domestic distributor of such a product ((RCW 70A.45.010)). For purposes of WAC 173-443-065(3) and 173-443-075(3), a manufacturer is the installer of the equipment.

("New" means:

- (a) Products or equipment that are manufactured after the effective date of this chapter;
- (b) Products or equipment first installed for an intended purpose with new or used components;

~~(c) Products or equipment expanded by the addition of components to increase system capacity after the effective date of this chapter; or~~

~~(d) Products or equipment replaced or cumulatively replaced such that the cumulative capital cost after the effective date of this chapter of replacement exceeds fifty percent of the capital cost of replacing the whole system.)~~

"Mission-critical military end-uses" means those uses of regulated substances, by an agency of the federal government responsible for national defense, that have a direct impact on mission capability, as determined by the U.S. Department of Defense including, but not limited to, uses necessary for development, testing, production, training, operation, and maintenance of armed forces deployable/expeditionary support equipment, munitions, and command and control systems.

"Mothballing" or "system mothballing" means the intentional shutting down of a refrigeration or air conditioning system for longer than 60 days by the owner or operator of the facility, where the refrigerant has been evacuated from the system or affected component, at least to atmospheric pressure.

"New air conditioning equipment" means any air conditioning equipment or system manufactured for an end-use listed in WAC 173-443-040, Table 3, that is first installed using new components, used components, or a combination of new and used components, and that is one of the following:

(a) New construction in a new or existing facility;

(b) A system in an existing facility with a single condenser and single evaporator that has a new exterior condenser, condensing unit, or remote condensing unit; or

(c) A system in an existing facility with more than one condenser or more than one evaporator that is modified such that the system undergoes cumulative replacement of 75 percent or more of its indoor evaporator units (by number) and 100 percent of its air source or water source condensing units.

"New products or equipment" means products or equipment manufactured for an end-use listed in WAC 173-443-040, Table 1, that is one or more of the following:

(a) Manufactured after the effective date of the prohibition;

(b) First installed with new or used components, or expanded by the addition of components to increase capacity, after the effective date of the prohibition; or

(c) Replaced or underwent cumulative replacement after the effective date of the prohibition such that the capital cost of replacement exceeds 50 percent of the capital cost of replacing the whole system, excluding display cases.

"New refrigeration equipment" means any refrigeration equipment or system manufactured for an end-use listed in WAC 173-443-040, Table 2, that is first installed using new components, used components, or a combination of new and used components, and that is one of the following:

(a) New construction in a new or existing facility;

(b) An addition or modification that increases the nominal compressor capacity of a system in an existing facility;

(c) New construction in an existing facility not previously used for retail food refrigeration, cold storage, ice rinks, or industrial process refrigeration; or

(d) A system in an existing facility used for retail food refrigeration, cold storage, ice rinks, or industrial process refrigeration

that is modified such that the system undergoes cumulative replacement of 75 percent or more of its evaporators (by number) and 100 percent of its compressor racks, condensers, and connected evaporator loads.

"Nonessential consumer products" means the following products if they are propelled by, contain, or manufactured with a chlorofluorocarbon, hydrochlorofluorocarbon, or hydrofluorocarbon:

(a) Any plastic party streamer or noise horn including, but not limited to:

- (i) String confetti;
- (ii) Marine safety horns;
- (iii) Sporting event horns;
- (iv) Personal safety horns;
- (v) Wall-mounted alarms used in factories or other work areas;

and

(vi) Intruder alarms used in homes or cars.

(b) Any cleaning fluid for electronic and photographic equipment for which there is not a low-GWP propellant approved by EPA for its use. This includes, but is not limited to:

- (i) Liquid packaging;
- (ii) Solvent wipes;
- (iii) Solvent sprays; and
- (iv) Gas sprays.

(c) Any plastic foam product, except any plastic foam product blown with CFC-11, but which contains no other Class I substances and where this product is used to provide thermal protection to external tanks for space vehicles.

"Nonretail foam products" means products consisting entirely of foam created solely to be an input for another product or manufacturing purpose resulting in another type of product.

"Normal operating characteristics and conditions" mean a refrigeration or air conditioning system's operating temperatures, pressures, fluid flows, speeds, and other characteristics, including full charge of the refrigeration or air conditioning system that would be expected for a given process load and ambient condition during operation.

"Offer for sale" means to make a transaction available regardless of any potential outcome. "Offer for sale" includes advertising for sale in any media such as a publication or broadcast that carries advertising including visual displays and any print/electronic forms.

"Online disclosure" means disclosing the ((substitute)) substance(s) contained((, used, or to be used in products or equipment)) or used or the compliance status of the product or equipment by ensuring that the information is available on an internet website that is accessible to the public free of charge.

(( "Owner's manual" means a paper or online instructional book that is available for an end-use product, which provides basic information about the product.))

"Operate" means to have operational control of the facility.

"Operator" means the person or entity having operational control of the facility.

"Other air conditioning" or "other air conditioning equipment" means any residential or nonresidential air conditioning equipment or air conditioning system not otherwise defined as a room air conditioner, residential dehumidifier, or variable refrigerant flow (VRF) system.

"Other refrigeration" or "other refrigeration equipment" means any stationary, nonresidential refrigeration equipment that is used

for an application other than retail food refrigeration, cold storage, ice rinks, industrial process refrigeration that does not use a chiller, or air conditioning; or is used for two or more applications including retail food refrigeration, cold storage, ice rinks, industrial process refrigeration, or air conditioning.

"PSI" means pounds per square inch.

"Packaged terminal air conditioner" or "PTAC" means a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for mounting through a wall.

"Packaged terminal air conditioner" includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability by builder's choice of energy.

"Packaged terminal heat pump" or "PTHP" means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and can have supplementary heating availability by builder's choice of energy.

"Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state ((RCW 70A.45.010)).

"Phenolic insulation board and bunstock" means phenolic insulation including, but not limited to, that used for roofing and wall insulation.

"Polyolefin" means foam sheets and tubes made of polyolefin, a macromolecule formed by the polymerization of olefin monomer units.

"Polystyrene extruded boardstock and billet (XPS)" means a foam formed from polymers of styrene and produced on extruding machines in the form of continuous foam slabs which can be cut and shaped into panels used for roofing, walls, flooring, and pipes.

"Polystyrene extruded sheet" means polystyrene foam including that used for packaging and buoyancy or floatation. It is also made into food-service items, including hinged polystyrene containers (for "take-out" from restaurants); food trays (meat and poultry) plates, bowls, and retail egg containers.

"Polyurethane" means a polymer formed principally by the reaction of an isocyanate and a polyol.

~~(("Positive displacement chiller" means vapor compression cycle chillers that use positive displacement compressors, typically used for commercial comfort air conditioning. Positive displacement chiller in this definition is a chiller intended for comfort cooling and does not include cooling for industrial process cooling and refrigeration.))~~

"Portable air conditioner" means a portable encased assembly, other than a "packaged terminal air conditioner," "packaged terminal heat pump," or "residential dehumidifier," that delivers cooled, conditioned air to an enclosed space, and is powered by a single-phase electric current. It includes a source of refrigeration and may include additional means for air circulation and heating.

"Product" means an article manufactured or refined for sale that contains or uses a substitute.

"Prohibited substance" means a regulated refrigerant or a substitute that is prohibited from being used by or contained in products or equipment manufactured for end-uses described in WAC 173-443-040, Table 1 through Table 4.

"Refrigerant" or "refrigerant gas" means any substance, including blends and mixtures, which is used for heat transfer purposes and provides a warming or cooling effect.

"Refrigerant blend" means a mixture or combination of two or more single-component refrigerants.

"Refrigerated food processing and dispensing equipment" means retail food refrigeration equipment that is designed to process food and beverages dispensed via a nozzle that are intended for immediate or near-immediate consumption including, but not limited to, chilled and frozen beverages, ice cream, and whipped cream. This end-use excludes water coolers, or units designed solely to cool and dispense water.

"Refrigeration equipment" or "refrigeration system" or "refrigeration appliance" means any stationary device that is designed to contain and use a refrigerant ((gas including, but not limited to, retail or commercial refrigeration equipment, household refrigeration equipment, and cold storage warehouses)). It is a combination of interconnected refrigerant-containing parts constituting one closed refrigerant circuit in which a refrigerant is circulated for the purpose of extracting heat. "Refrigeration equipment" or "refrigeration system" includes refrigeration equipment used in retail food, cold storage, industrial process refrigeration and cooling that does not use a chiller, ice rinks, and other refrigeration applications.

"Remote condensing unit((s))" means ((~~retail~~)) refrigeration equipment or units that have a central condensing portion and may consist of one or more compressors, condensers, and receivers assembled into a single unit, which may be located external to the sales area. The condensing portion (and often other parts of the system) is located outside the space or area cooled by the evaporator. Remote condensing units are commonly installed in convenience stores, specialty shops (e.g., bakeries, butcher shops), supermarkets, restaurants, and other locations where food is stored, served, or sold.

"Residential dehumidifier" means a residential air conditioning system, other than a room air conditioner, that is a self-contained, electrically operated, portable, and mechanically encased assembly consisting of:

(a) A refrigerated surface (evaporator) that condenses moisture from the atmosphere;

(b) A refrigeration system, including an electric motor;

(c) An air circulating fan; and

(d) A means of collecting and disposing of the condensate.

"Retail foam products" means products consisting entirely of foam that are created for the purpose of selling or otherwise providing that product in a finished state that does not involve any additional manufacturing or refinement.

"Retail food refrigeration" means refrigeration that uses equipment designed to store and display chilled or frozen goods for commercial sale or use including, but not limited to, stand-alone units, refrigerated food processing and dispensing equipment, remote condensing units, and supermarket systems.

"Retrofit" means to convert an appliance from one refrigerant to another refrigerant. Retrofitting includes the conversion of the appliance to achieve system compatibility with the new refrigerant and may include, but is not limited to, changes in lubricants, gaskets, filters, driers, valves, o-rings, or appliance components ((~~RCW 70A.45.010~~)). For purposes of WAC 173-443-040 through 173-443-075, "retrofit" refers to an appliance or equipment that has undergone a retrofit.

"Rigid polyurethane and polyisocyanurate laminated boardstock" means laminated board insulation made with polyurethane or polyisocyanurate foam, including that used for roofing and walls.

"Rigid polyurethane appliance foam" means polyurethane foam in domestic appliances used for insulation.

"Rigid polyurethane commercial refrigeration and sandwich panels" means polyurethane foam used to provide insulation in walls and doors, including that used for commercial refrigeration equipment, and used in doors, including garage doors.

"Rigid polyurethane high-pressure two-component spray foam" means a liquid polyurethane foam system sold as two parts (i.e., A-side and B-side) in nonpressurized containers; and is field or factory applied in situ using high-pressure proportioning pumps at 800 - 1600 psi and an application gun to mix and dispense the chemical components.

"Rigid polyurethane low-pressure two-component spray foam" means a liquid polyurethane foam system sold as two parts (i.e., A-side and B-side) in containers that are pressurized to less than 250 psi during manufacture of the system for application without pumps; and are typically applied in situ relying upon a liquid blowing agent and/or gaseous foam blowing agent that also serves as a propellant.

"Rigid polyurethane marine flotation foam" means buoyancy or flotation polyurethane foam used in boat and ship manufacturing for both structural and flotation purposes.

"Rigid polyurethane one-component foam sealants" means a polyurethane foam generally packaged in aerosol cans that is applied in situ using a gaseous foam blowing agent that is also the propellant for the aerosol formulation.

"Rigid polyurethane slabstock and other" means a rigid closed-cell polyurethane foam formed into slabstock insulation for panels and fabricated shapes for pipes and vessels.

"Room air conditioner" includes window units, wall units, packaged terminal air conditioners (PTACs), packaged terminal heat pumps (PTHPs), and portable air conditioners.

"Small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned or operated independently from all other businesses, and that has 50 or fewer employees.

"Small container of refrigerant" means a container having more than two ounces and less than two pounds of a refrigerant that is designed or intended for consumer recharge of a motor vehicle air conditioning (MVAC) system or consumer appliance.

"Stand-alone low-temperature unit" means a stand-alone unit that maintains food or beverages at temperatures at or below 32°F (0°C).

"Stand-alone medium-temperature unit" means a stand-alone unit that maintains food or beverages at temperatures above 32°F (0°C).

"Stand-alone unit" means retail refrigerators, freezers, and reach-in coolers (either open or with doors) where all refrigeration components are integrated and, for the smallest types, the refrigeration circuit is entirely brazed or welded. These systems are fully charged with refrigerant at the factory and typically require only an electricity supply to begin operation.

"Stationary" means the system is:

- (a) Installed in a building, structure, or facility;
- (b) Attached to a foundation, or if not attached, will reside at the same location for more than (~~twelve~~) 12 consecutive months; or
- (c) Located intermittently at the same facility for at least two consecutive years and operates at that facility a total of at least (~~ninety~~) 90 days each year.

"Substitute" means a chemical, product substitute, or alternative manufacturing process, whether existing or new, that is used to per-



form a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function including, but not limited to, hydrofluorocarbons. "Substitute" does not include 2-BTP or any compound as applied to its use in aerospace fire extinguishing systems (~~(RCW 70A.45.010)~~).

"Sufficient disclosure" means providing the name of the (~~substitute~~) substance.

"Supermarket systems" means multiplex or centralized retail food refrigeration equipment systems designed to cool or refrigerate, which operate with racks of compressors installed in a machinery room and which includes both direct and indirect systems.

"Symbol" means a graphical or hybrid word-graphical symbol for the purposes of conveying the types of substitutes used in the product or equipment and signaling that further information on the use of substitutes is available through online disclosure.

"System identification number" means a unique identification number for each refrigeration or air conditioning system at a facility. The system identification number is comprised of the facility identification number followed by a three-digit number starting at 001 and sequentially assigned to each unique refrigeration or air conditioning system.

"Unit" means a collection of like products bundled together for purposes of commerce.

"Unit label" means a label adhered or attached, or capable of being adhered or attached, to a collection of like products bundled together for purposes of commerce.

"Use" means any utilization of a compound or substance including, but not limited to, utilization in a product in Washington, consumption by the end-user in the state of Washington, or in intermediate applications in the state of Washington, such as formulation or packaging for other subsequent applications.

"Variable refrigerant flow (VRF) system" means an engineered direct expansion (DX) multisplit system incorporating the following: A split system air conditioner or heat pump incorporating a single refrigerant circuit that is a common piping network to two or more indoor evaporators each capable of independent control, or compressor units. "VRF systems" contain a single module outdoor unit or combined module outdoor units with at least one variable capacity compressor that has three or more stages, with air or water as the heat source. This includes "variable refrigerant volume (VRV) systems."

"Vending machine" means a self-contained unit that dispenses goods that must be kept cold or frozen.

"Verification test" means a leak test conducted after a repair is finished to verify that a leak has been repaired.

"Very low temperature refrigeration or cooling" means a refrigeration or cooling system that maintains temperatures below -58°F (-50°C) including, but not limited to, medical and laboratory freezers, specialized industrial process cooling applications, and extreme temperature environmental testing.

**PART I - PROHIBITIONS ON THE USE OF CERTAIN HYDROFLUOROCARBONS**

AMENDATORY SECTION (Amending WSR 21-01-085, filed 12/10/20, effective 1/10/21)

**WAC 173-443-040 List of prohibited ((substitutes)) substances.**

(1) ((The tables)) Table 1 in this section lists ((substitutes)) prohibited ((in specific end-uses and the effective date of prohibition, unless an exemption is provided for in WAC 173-443-050.

~~(2) Prohibitions for the aerosol propellants end-use category)) substances in new products and equipment, as defined in WAC 173-443-030, and the effective date of the prohibition, unless an exemption is provided for in WAC 173-443-050.~~

<b>((End-Use Category: Aerosol Propellants</b>		
<b>End-Use</b>	<b>Prohibited Substitutes</b>	<b>Effective Date</b>
Aerosol propellants	HFC-125, HFC-134a, HFC-227ea and blends of HFC-227ea and HFC-134a	January 1, 2020

~~(3) Prohibitions for the air conditioning end-use category.~~

<b>End-Use Category: Air Conditioning</b>		
<b>End-Use</b>	<b>Prohibited Substitutes</b>	<b>Effective Date</b>
Centrifugal chillers (new)	FOR12A, FOR12B, HFC-134a, HFC-227ea, HFC-236fa, HFC-245fa, R-125/134a/600a (28.1/70/1.9); R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-410A, R-410B, R-417A, R-421A, R-422B, R-422C, R-422D, R-423A, R-424A, R-434A, R-438A, R-507A, RS-44 (2003 composition), THR-03	January 1, 2024
Positive displacement chillers (new)	FOR12A, FOR12B, HFC-134a, HFC-227ea, KDD6, R-125/134a/600a (28.1/70/1.9), R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-410A, R-410B, R-417A, R-421A, R-422B, R-422C, R-422D, R-424A, R-434A, R-437A, R-438A, R-507A, RS-44 (2003 composition), SP34E, THR-03	January 1, 2024

~~(4) Prohibitions for the refrigeration end-use category.~~

<b>End-Use Category: Refrigeration</b>		
<b>End-Use</b>	<b>Prohibited Substitutes</b>	<b>Effective Date</b>
Cold storage warehouses (new)	HFC-227ea, R-125/290/134a/600a (55.0/1.0/42.5/1.5); R-404A, R-407A, R-407B, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-423A, R-424A, R-428A, R-434A, R-438A, R-507A, RS-44 (2003 composition)	January 1, 2023
Household refrigerators and freezers (new)	FOR12A, FOR12B, HFC-134a, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-426A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-24 (2002 formulation); RS-44 (2003 formulation), SP34E, THR-03	January 1, 2022

<b>End-Use Category: Refrigeration</b>		
<b>End-Use</b>	<b>Prohibited Substitutes</b>	<b>Effective Date</b>
Household refrigerators and freezers – Compact (new)	FOR12A, FOR12B, HFC-134a, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-426A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-24 (2002 formulation), RS-44 (2003 formulation), SP34E, THR-03	January 1, 2021
Household refrigerators and freezers – Built-in appliances (new)	FOR12A, FOR12B, HFC-134a, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-426A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-24 (2002 formulation), RS-44 (2003 formulation), SP34E, THR-03	January 1, 2023
Supermarket systems (retrofit)	R-404A, R-407B, R-421B, R-422A, R-422C, R-422D, R-428A, R-434A, R-507A	January 1, 2020
Supermarket systems (new)	HFC-227ea, R-404A, R-407B, R-421B, R-422A, R-422C, R-422D, R-428A, R-434A, R-507A	January 1, 2020
Remote condensing units (retrofit)	R-404A, R-407B, R-421B, R-422A, R-422C, R-422D, R-428A, R-434A, R-507A	January 1, 2020
Remote condensing units (new)	HFC-227ea, R-404A, R-407B, R-421B, R-422A, R-422C, R-422D, R-428A, R-434A, R-507A	January 1, 2020
Stand-alone units (retrofit)	R-404A, R-507A	January 1, 2020
Stand-alone medium-temperature units (new)	FOR12A, FOR12B, HFC-134a, HFC-227ea, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407A, R-407B, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-426A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-24 (2002 formulation), RS-44 (2003 formulation), SP34E, THR-03	January 1, 2020
Stand-alone low-temperature units (new)	HFC-227ea, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407A, R-407B, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-44 (2003 formulation)	January 1, 2020
Refrigerated food processing and dispensing equipment (new)	HFC-227ea, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407A, R-407B, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-44 (2003 formulation)	January 1, 2021
Vending machines (retrofit)	R-404A, R-507A	January 1, 2022
Vending machines (new)	FOR12A, FOR12B, HFC-134a, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-410A, R-410B, R-417A, R-421A, R-422B, R-422C, R-422D, R-426A, R-437A, R-438A, R-507A, RS-24 (2002 formulation), SP34E	January 1, 2022

~~(5) Prohibitions for the foams end-use category.~~

<b>End-Use Category: Foams</b>		
<b>End-Use</b>	<b>Prohibited Substitutes</b>	<b>Effective Date</b>
Rigid polyurethane and polyisocyanurate laminated boardstock	HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof	January 1, 2020
Flexible polyurethane	HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof	January 1, 2020
Integral skin polyurethane	HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel TI, Formacel Z-6	January 1, 2020

<b>End-Use Category: Foams</b>		
<b>End-Use</b>	<b>Prohibited Substitutes</b>	<b>Effective Date</b>
Polystyrene extruded sheet	HFC-134a, HFC-245fa, HFC-365mfe, and blends thereof; Formacel TI, Formacel Z-6	January 1, 2020
Phenolic insulation board and bunstock	HFC-143a, HFC-134a, HFC-245fa, HFC-365mfe, and blends thereof	January 1, 2020
Rigid polyurethane slabstock and other	HFC-134a, HFC-245fa, HFC-365mfe, and blends thereof; Formacel TI, Formacel Z-6	January 1, 2020
Rigid polyurethane appliance foam	HFC-134a, HFC-245fa, HFC-365mfe, and blends thereof; Formacel TI, Formacel Z-6	January 1, 2020
Rigid polyurethane commercial refrigeration and sandwich panels	HFC-134a, HFC-245fa, HFC-365mfe, and blends thereof; Formacel TI, Formacel Z-6	January 1, 2020
Polyolefin	HFC-134a, HFC-245fa, HFC-365mfe, and blends thereof; Formacel TI, Formacel Z-6	January 1, 2020
Rigid polyurethane marine flotation foam	HFC-134a, HFC-245fa, HFC-365mfe, and blends thereof; Formacel TI, Formacel Z-6	January 1, 2020
Polystyrene extruded boardstock and billet (XPS)	HFC-134a, HFC-245fa, HFC-365mfe, and blends thereof; Formacel TI, Formacel B, Formacel Z-6	January 1, 2021
Rigid polyurethane high-pressure two-component spray foam	HFC-134a, HFC-245fa, and blends thereof; blends of HFC-365mfe with at least 4 percent HFC-245fa, and commercial blends of HFC-365mfe with 7 to 13 percent HFC-227ea and the remainder HFC-365mfe; Formacel TI	January 1, 2020
Rigid polyurethane low-pressure two-component spray foam	HFC-134a, HFC-245fa, and blends thereof; blends of HFC-365mfe with at least 4 percent HFC-245fa, and commercial blends of HFC-365mfe with 7 to 13 percent HFC-227ea and the remainder HFC-365mfe; Formacel TI	January 1, 2021
Rigid polyurethane one-component foam sealants	HFC-134a, HFC-245fa, and blends thereof; blends of HFC-365mfe with at least 4 percent HFC-245fa, and commercial blends of HFC-365mfe with 7 to 13 percent HFC-227ea and the remainder HFC-365mfe; Formacel TI	January 1, 2020))

**TABLE 1. Prohibited Substances for New Products and Equipment**

<b>End-Use Category: Aerosol Propellants</b>		
<b>End-Use</b>	<b>Prohibited Substances</b>	<b>Effective Date</b>
Aerosol propellants	HFC-125, HFC-134a, HFC-227ea and blends of HFC-227ea and HFC-134a	January 1, 2020

  

<b>End-Use Category: Air Conditioning</b>		
<b>End-Use</b>	<b>Prohibited Substances</b>	<b>Effective Date</b>
Centrifugal chillers - Cooling only (New)	FOR12A, FOR12B, HFC-134a, HFC-227ea, HFC-236fa, HFC-245fa, R-125/134a/600a (28.1/70/1.9), R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-410A, R-410B, R-417A, R-421A, R-422B, R-422C, R-422D, R-423A, R-424A, R-434A, R-438A, R-507A, RS-44 (2003 composition), THR-03	January 1, 2024
Positive displacement chillers - Cooling only (New)	FOR12A, FOR12B, HFC-134a, HFC-227ea, KDD6, R-125/134a/600a (28.1/70/1.9), R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-410A, R-410B, R-417A, R-421A, R-422B, R-422C, R-422D, R-424A, R-434A, R-437A, R-438A, R-507A, RS-44 (2003 composition), SP34E, THR-03	January 1, 2024
Centrifugal chillers - Heating and heating and cooling (New)	FOR12A, FOR12B, HFC-134a, HFC-227ea, HFC-236fa, HFC-245fa, R-125/134a/600a (28.1/70/1.9), R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-410A, R-410B, R-417A, R-421A, R-422B, R-422C, R-422D, R-423A, R-424A, R-434A, R-438A, R-507A, RS-44 (2003 composition), THR-03	January 1, 2025

<b>End-Use Category: Air Conditioning</b>		
<b>End-Use</b>	<b>Prohibited Substances</b>	<b>Effective Date</b>
<u>Positive displacement chillers - Heating and heating and cooling (New)</u>	FOR12A, FOR12B, HFC-134a, HFC-227ea, KDD6, R-125/134a/600a (28.1/70/1.9), R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-410A, R-410B, R-417A, R-421A, R-422B, R-422C, R-422D, R-424A, R-434A, R-437A, R-438A, R-507A, RS-44 (2003 composition), SP34E, THR-03	<u>January 1, 2025</u>
<b>End-Use Category: Refrigeration</b>		
<b>End-Use</b>	<b>Prohibited Substances</b>	<b>Effective Date</b>
<u>Cold storage warehouses (New)</u>	HFC-227ea, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407A, R-407B, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-423A, R-424A, R-428A, R-434A, R-438A, R-507A, RS-44 (2003 composition)	<u>January 1, 2023</u>
<u>Household refrigerators and freezers (New)</u>	FOR12A, FOR12B, HFC-134a, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-426A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-24 (2002 formulation), RS-44 (2003 formulation), SP34E, THR-03	<u>January 1, 2022</u>
<u>Household refrigerators and freezers - Compact (New)</u>	FOR12A, FOR12B, HFC-134a, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-426A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-24 (2002 formulation), RS-44 (2003 formulation), SP34E, THR-03	<u>January 1, 2021</u>
<u>Household refrigerators and freezers - Built-in appliances (New)</u>	FOR12A, FOR12B, HFC-134a, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-426A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-24 (2002 formulation), RS-44 (2003 formulation), SP34E, THR-03	<u>January 1, 2023</u>
<u>Supermarket systems (Retrofit)</u>	R-404A, R-407B, R-421B, R-422A, R-422C, R-422D, R-428A, R-434A, R-507A	<u>January 1, 2020</u>
<u>Supermarket systems (New)</u>	HFC-227ea, R-404A, R-407B, R-421B, R-422A, R-422C, R-422D, R-428A, R-434A, R-507A	<u>January 1, 2020</u>
<u>Remote condensing units, except for automatic commercial ice machines (Retrofit)</u>	R-404A, R-407B, R-421B, R-422A, R-422C, R-422D, R-428A, R-434A, R-507A	<u>January 1, 2020</u>
<u>Remote condensing units, except for automatic commercial ice machines (New)</u>	HFC-227ea, R-404A, R-407B, R-421B, R-422A, R-422C, R-422D, R-428A, R-434A, R-507A	<u>January 1, 2020</u>
<u>Automatic commercial ice machines - Remote condensing units (New and retrofit)</u>	R-404A, R-507, R-507A, R-428A, R-422C, R-434A, R-421B, R-408A, R-422A, R-407B, R-402A, R-422D, R-421A, R-125/R-290/R-134a/R-600a (55.0/1.0/42.5/1.5), R-422B, R-424A, R-402B, GHG-X5, R-417A, R-438A, and R-410B	<u>January 1, 2025</u>
<u>Stand-alone units, except for automatic commercial ice machines (Retrofit)</u>	R-404A, R-507A	<u>January 1, 2020</u>
<u>Stand-alone medium-temperature units (New)</u>	FOR12A, FOR12B, HFC-134a, HFC-227ea, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407A, R-407B, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-426A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-24 (2002 formulation), RS-44 (2003 formulation), SP34E, THR-03	<u>January 1, 2020</u>

<b>End-Use Category: Refrigeration</b>		
<b>End-Use</b>	<b>Prohibited Substances</b>	<b>Effective Date</b>
<u>Stand-alone low-temperature units (New)</u>	<u>HFC-227ea, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407A, R-407B, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-44 (2003 formulation)</u>	<u>January 1, 2020</u>
<u>Automatic commercial ice machines - Stand-alone units (New and retrofit)</u>	<u>R-404A, R-507, R-507A, R-428A, R-422C, R-434A, R-421B, R-408A, R-422A, R-407B, R-402A, R-422D, R-421A, R-125/R-290/R-134a/R-600a (55.0/1.0/42.5/1.5), R-422B, R-424A, R-402B, GHG-X5, R-417A, R-438A, R-410B, R-407A, R-410A, R-442A, R-417C, R-407F, R-437A, R-407C, RS-24 (2004 formulation), and HFC-134a</u>	<u>January 1, 2025</u>
<u>Refrigerated food processing and dispensing equipment (New)</u>	<u>HFC-227ea, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407A, R-407B, R-407C, R-407F, R-410A, R-410B, R-417A, R-421A, R-421B, R-422A, R-422B, R-422C, R-422D, R-424A, R-428A, R-434A, R-437A, R-438A, R-507A, RS-44 (2003 formulation)</u>	<u>January 1, 2021</u>
<u>Vending machines (Retrofit)</u>	<u>R-404A, R-507A</u>	<u>January 1, 2022</u>
<u>Vending machines (New)</u>	<u>FOR12A, FOR12B, HFC-134a, KDD6, R-125/290/134a/600a (55.0/1.0/42.5/1.5), R-404A, R-407C, R-410A, R-410B, R-417A, R-421A, R-422B, R-422C, R-422D, R-426A, R-437A, R-438A, R-507A, RS-24 (2002 formulation), SP34E</u>	<u>January 1, 2022</u>

<b>End-Use Category: Foams</b>		
<b>End-Use</b>	<b>Prohibited Substances</b>	<b>Effective Date</b>
<u>Rigid polyurethane and polyisocyanurate laminated boardstock</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof</u>	<u>January 1, 2020</u>
<u>Flexible polyurethane</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof</u>	<u>January 1, 2020</u>
<u>Integral skin polyurethane</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel TI, Formacel Z-6</u>	<u>January 1, 2020</u>
<u>Polystyrene extruded sheet</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel TI, Formacel Z-6</u>	<u>January 1, 2020</u>
<u>Phenolic insulation board and bunstock</u>	<u>HFC-143a, HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof</u>	<u>January 1, 2020</u>
<u>Rigid polyurethane slabstock and other</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel TI, Formacel Z-6</u>	<u>January 1, 2020</u>
<u>Rigid polyurethane appliance foam</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel TI, Formacel Z-6</u>	<u>January 1, 2020</u>
<u>Rigid polyurethane commercial refrigeration and sandwich panels</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel TI, Formacel Z-6</u>	<u>January 1, 2020</u>
<u>Polyolefin</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel TI, Formacel Z-6</u>	<u>January 1, 2020</u>
<u>Rigid polyurethane marine flotation foam</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel TI, Formacel Z-6</u>	<u>January 1, 2020</u>
<u>Polystyrene extruded boardstock and billet (XPS)</u>	<u>HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel TI, Formacel B, Formacel Z-6</u>	<u>January 1, 2021</u>
<u>Rigid polyurethane high-pressure two-component spray foam</u>	<u>HFC-134a, HFC-245fa, and blends thereof; blends of HFC-365mfc with at least 4 percent HFC-245fa, and commercial blends of HFC-365mfc with 7 to 13 percent HFC-227ea and the remainder HFC-365mfc; Formacel TI</u>	<u>January 1, 2020</u>
<u>Rigid polyurethane low-pressure two-component spray foam</u>	<u>HFC-134a, HFC-245fa, and blends thereof; blends of HFC-365mfc with at least 4 percent HFC-245fa, and commercial blends of HFC-365mfc with 7 to 13 percent HFC-227ea and the remainder HFC-365mfc; Formacel TI</u>	<u>January 1, 2021</u>

<b>End-Use Category: Foams</b>		
<b>End-Use</b>	<b>Prohibited Substances</b>	<b>Effective Date</b>
<u>Rigid polyurethane one-component foam sealants</u>	<u>HFC-134a, HFC-245fa, and blends thereof; blends of HFC-365mfc with at least 4 percent HFC-245fa, and commercial blends of HFC-365mfc with 7 to 13 percent HFC-227ea and the remainder HFC-365mfc; Formacel TI</u>	<u>January 1, 2020</u>

(2) Table 2 in this section lists prohibited substances in new or retrofit refrigeration equipment, as defined in WAC 173-443-030, with a full charge of more than 50 pounds and the effective date of the prohibition, unless an exemption is provided for in WAC 173-443-050.

**TABLE 2. Prohibited Substances for New or Retrofit Refrigeration Equipment**

<b>End-Use</b>	<b>Criteria</b>	<b>Prohibited Substances</b>	<b>Effective Date</b>
<u>Commercial refrigeration: Retail food refrigeration including chillers (New)</u>	<u>New refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 150</u>	<u>January 1, 2025</u>
<u>Commercial refrigeration: Retail food refrigeration including chillers (Retrofit)</u>	<u>Retrofit refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 150</u>	<u>January 1, 2029</u>
<u>Commercial refrigeration: Cold storage warehouses (New)</u>	<u>New refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 150</u>	<u>January 1, 2025</u>
<u>Commercial refrigeration: Cold storage warehouses (Retrofit)</u>	<u>Retrofit refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 150</u>	<u>January 1, 2029</u>
<u>Industrial process refrigeration excluding chillers (New)</u>	<u>New refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 150</u>	<u>January 1, 2025</u>
<u>Industrial process refrigeration excluding chillers (Retrofit)</u>	<u>Retrofit refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 150</u>	<u>January 1, 2029</u>
<u>Chillers used for industrial process refrigeration (New)</u>	<u>New refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>January 1, 2025</u>
<u>Chillers used for industrial process refrigeration (Retrofit)</u>	<u>Retrofit refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>January 1, 2029</u>
<u>Ice rinks including chillers (New)</u>	<u>New refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 150</u>	<u>January 1, 2024</u>
<u>Ice rinks including chillers (Retrofit)</u>	<u>Retrofit refrigeration equipment with a full charge of more than 50 pounds of refrigerant</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>January 1, 2024</u>

(3) Table 3 in this section lists prohibited substances in new or retrofit air conditioning equipment, as defined in WAC 173-443-030, and the effective date of the prohibition, unless an exemption is provided for in WAC 173-443-050.

**TABLE 3. Prohibited Substances for New or Retrofit Air Conditioning Equipment**

<u>End-Use</u>	<u>Criteria</u>	<u>Prohibited Substances</u>	<u>Effective Date</u>
<u>Room air conditioners and residential dehumidifiers (New)</u>	<u>New air conditioning equipment</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>January 1, 2024</u>
<u>Room air conditioners and residential dehumidifiers (Retrofit)</u>	<u>Retrofit air conditioning equipment</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>January 1, 2029</u>
<u>Other types of air conditioning equipment used in residential and nonresidential applications (New)</u>	<u>New air conditioning equipment</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>January 1, 2026, if UL 60335-2-40 Edition 4 is adopted by the Washington state building code council by December 31, 2023; otherwise 24 months following adoption of the updated code</u>
<u>Other types of air conditioning equipment used in residential and nonresidential applications (Retrofit)</u>	<u>Retrofit air conditioning equipment</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>January 1, 2029</u>
<u>Variable refrigerant flow (VRF) or volume system (New)</u>	<u>New air conditioning equipment</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>January 1, 2026</u>
<u>Variable refrigerant flow (VRF) or volume system (Retrofit)</u>	<u>Retrofit air conditioning equipment</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>January 1, 2029</u>

(4) Table 4 in this section lists prohibited substances in small containers of refrigerant and nonessential consumer products, as the terms are defined in WAC 173-443-030, and the effective date of the prohibition.

**TABLE 4. Prohibited Substances for Small Containers of Refrigerant and Nonessential Consumer Products**

<u>End-Use</u>	<u>Prohibited Substances</u>	<u>Effective Date</u>
<u>Small containers of refrigerant</u>	<u>Substitutes with a GWP greater than 150</u>	<u>July 25, 2021</u>
<u>Nonessential consumer products</u>	<u>Substitutes with a GWP greater than 150</u>	<u>July 25, 2021</u>

AMENDATORY SECTION (Amending WSR 21-01-085, filed 12/10/20, effective 1/10/21)

**WAC 173-443-050 Exemptions applicable to WAC 173-443-040, Tables 1 through 3.** ((The following table)) (1) Table 1 in this section lists exemptions to the prohibitions listed in WAC 173-443-040, Table 1.



((End-Use Category	Prohibited Substitutes	Acceptable Uses
Aerosol propellants	HFC-134a	Cleaning products for removal of grease, flux and other soils from electrical equipment; refrigerant flushes; products for sensitivity testing of smoke detectors; lubricants and freeze sprays for electrical equipment or electronics; sprays for aircraft maintenance; sprays containing corrosion preventive compounds used in the maintenance of aircraft, electrical equipment or electronics, or military equipment; pesticides for use near electrical wires, in aircraft, in total release insecticide foggers, or in certified organic use pesticides for which EPA has specifically disallowed all other lower-GWP propellants; mold release agents and mold cleaners; lubricants and cleaners for spinnerettes for synthetic fabrics; duster sprays specifically for removal of dust from photographic negatives, semiconductor chips, specimens under electron microscopes, and energized electrical equipment; adhesives and sealants in large canisters; document preservation sprays; FDA-approved MDIs for medical purposes; wound care sprays; topical coolant sprays for pain relief; products for removing bandage adhesives from skin; bear spray; and pepper spray.
Aerosol propellants	HFC-227ea and blends of HFC-227ea and HFC-134a	FDA-approved MDIs for medical purposes.
Air conditioning	HFC-134a	Military marine vessels where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.
Air conditioning	HFC-134a and R-404A	Human-rated spacecraft and related support equipment where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.
Foams – Except rigid polyurethane spray foam	All substitutes	Military applications where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements until January 1, 2022.
Foams – Except rigid polyurethane spray foam	All substitutes	Space- and aeronautics-related applications where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements until January 1, 2025.
Rigid polyurethane two-component spray foam	All substitutes	Military or space- and aeronautics-related applications where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements until January 1, 2025.))

**TABLE 1. Exemptions for New Products and Equipment**

<u>End-Use</u>	<u>Prohibited Substances</u>	<u>Exemptions</u>
<u>Aerosol propellants</u>	<u>HFC-134a</u>	<p><u>Cleaning products for removal of grease, flux, and other soils from electrical equipment;</u></p> <p><u>Refrigerant flushes;</u></p> <p><u>Products for sensitivity testing of smoke detectors;</u></p> <p><u>Lubricants and freeze sprays for electrical equipment or electronics;</u></p> <p><u>Sprays for aircraft maintenance;</u></p> <p><u>Sprays containing corrosion preventive compounds used in the maintenance of aircraft, electrical equipment or electronics, or military equipment;</u></p> <p><u>Pesticides for use near electrical wires, in aircraft, in total release insecticide foggers, or in certified organic use pesticides for which EPA has specifically disallowed all other lower-GWP propellants;</u></p> <p><u>Mold release agents and mold cleaners;</u></p> <p><u>Lubricants and cleaners for spinnerettes for synthetic fabrics;</u></p> <p><u>Duster sprays specifically for removal of dust from photographic negatives, semiconductor chips, specimens under electron microscopes, and energized electrical equipment;</u></p> <p><u>Adhesives and sealants in large canisters;</u></p> <p><u>Document preservation sprays;</u></p> <p><u>FDA-approved MDIs for medical purposes;</u></p> <p><u>Wound care sprays;</u></p> <p><u>Topical coolant sprays for pain relief;</u></p> <p><u>Products for removing bandage adhesives from skin;</u></p> <p><u>Bear spray; and</u></p> <p><u>Pepper spray.</u></p>
<u>Aerosol propellants</u>	<u>HFC-227ea and blends of HFC-227ea and HFC-134a</u>	<u>FDA-approved MDIs for medical purposes.</u>
<u>Air conditioning: Centrifugal chillers Positive displacement chillers</u>	<u>HFC-134a</u>	<u>Military marine vessels where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.</u>
<u>Air conditioning: Centrifugal chillers Positive displacement chillers</u>	<u>HFC-134a and R-404A</u>	<u>Human-rated spacecraft and related support equipment where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.</u>
<u>Foams - Except rigid polyurethane spray foam</u>	<u>All substitutes</u>	<u>Military applications where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements until January 1, 2022; and Space- and aeronautics-related applications where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements until January 1, 2025.</u>
<u>Rigid polyurethane two-component spray foam</u>	<u>All substitutes</u>	<u>Military or space- and aeronautics-related applications where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements until January 1, 2025.</u>

(2) Table 2 in this section lists exemptions for new or retrofit stationary refrigeration equipment prohibitions set forth in WAC 173-443-040, Table 2.

**TABLE 2. Exemptions For New or Retrofit Stationary Refrigeration Equipment**

<u>End-Use</u>	<u>Prohibited Substances</u>	<u>Exemptions</u>
<p><u>Commercial refrigeration:</u> <u>Retail food refrigeration, including chillers (New or retrofit)</u></p>	<p><u>Refrigerants with a GWP greater than 150</u></p>	<p><u>Equipment with 50 pounds or less of refrigerant;</u> <u>Replacement of a refrigeration component in an existing facility as part of normal maintenance provided the result does not meet the criteria of "new refrigeration equipment" as defined in WAC 173-443-030;</u> <u>Facilities with new refrigeration equipment with an approved building permit issued before the effective date of this chapter; and</u> <u>Mission-critical military end-uses, as defined in WAC 173-443-030.</u></p>
<p><u>Commercial refrigeration:</u> <u>Cold storage warehouses (New or retrofit)</u></p>	<p><u>Refrigerants with a GWP greater than 150</u></p>	<p><u>Equipment with 50 pounds or less of refrigerant;</u> <u>Replacement of a refrigeration component in an existing facility as part of normal maintenance provided the result does not meet the criteria of "new refrigeration equipment" as defined in WAC 173-443-030;</u> <u>Facilities with new refrigeration equipment with an approved building permit issued before the effective date of this chapter; and</u> <u>Mission-critical military end-uses, as defined in WAC 173-443-030.</u></p>
<p><u>Industrial process refrigeration, excluding chillers (New or retrofit)</u></p>	<p><u>Refrigerants with a GWP greater than 150</u></p>	<p><u>Equipment with 50 pounds or less of refrigerant;</u> <u>Replacement of a refrigeration component in an existing facility as part of normal maintenance provided the result does not meet the criteria of "new refrigeration equipment" as defined in WAC 173-443-030;</u> <u>Very low temperature (VLT) refrigeration or cooling uses;</u> <u>Facilities with new refrigeration equipment with an approved building permit issued before the effective date of this chapter; and</u> <u>Mission-critical military end-uses, as defined in WAC 173-443-030.</u></p>
<p><u>Chillers used for industrial process refrigeration (New or retrofit)</u></p>	<p><u>Refrigerants with a GWP greater than 750</u></p>	<p><u>Equipment with 50 pounds or less of refrigerant;</u> <u>Replacement of a refrigeration component in an existing facility as part of normal maintenance provided the result does not meet the criteria of "new refrigeration equipment" as defined in WAC 173-443-030;</u> <u>Very low temperature (VLT) refrigeration or cooling uses;</u> <u>Facilities with new refrigeration equipment with a building permit issued before the effective date of this chapter; and</u> <u>Mission-critical military end-uses, as defined in WAC 173-443-030.</u></p>

(3) Table 3 in this section lists exemptions for new or retrofit stationary air conditioning equipment prohibitions set forth in WAC 173-443-040, Table 3.

**TABLE 3. Exemptions for New or Retrofit Stationary Air Conditioning Equipment**

End-Use	Prohibited Substances	Exemptions
<u>Room air conditioners and residential dehumidifiers (New or retrofit)</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>Facilities with new air conditioning equipment with a building permit issued before the effective date of this chapter; and</u> <u>Mission-critical military end-uses, as defined in WAC 173-443-030.</u>
<u>Variable refrigerant flow (VRF) or volume system (New or retrofit)</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>Facilities with new air conditioning equipment with a building permit issued before the effective date of this chapter; and</u> <u>Mission-critical military end-uses, as defined in WAC 173-443-030.</u>
<u>Other types of air conditioning equipment used in residential and nonresidential applications (New or retrofit)</u>	<u>Refrigerants with a GWP greater than 750</u>	<u>Facilities with new air conditioning equipment with a building permit issued before the effective date of this chapter; and</u> <u>Mission-critical military end-uses, as defined in WAC 173-443-030.</u>

AMENDATORY SECTION (Amending WSR 21-01-085, filed 12/10/20, effective 1/10/21)

**WAC 173-443-060 Prohibitions and additional requirements for new products and equipment listed in Table 1.** (1) Prohibitions. No person may offer for sale, lease, rent, install, or otherwise cause to enter into Washington commerce any new product or equipment, as defined in WAC 173-443-030, that contains~~((τ))~~ or uses~~((τ or will use HFCs or other substitutes prohibited for an end-use))~~ a prohibited substance listed in WAC 173-443-040, Table 1, unless an exemption is provided for in WAC 173-443-050.

(2) Sell through provisions.

~~((a))~~ (a) Products and equipment manufactured prior to the ~~((applicable))~~ effective date of a prohibition in WAC 173-443-040, Table 1, may be sold, leased, rented, imported, exported, distributed, installed, used, or otherwise introduced into Washington commerce after the date of prohibition.

~~((a))~~ (a) For products and equipment imported from outside the United States, the date of import may be considered the date of manufacture.

~~((b))~~ (b) For refrigeration equipment and chillers, the date the manufacturer affixed an equipment label indicating the equipment's date of manufacture is the date of manufacture.

~~((e))~~ (b) Polyurethane foam systems manufactured (blended) before ~~((an applicable))~~ the prohibition date and not yet applied on site may be used after the prohibition date.

(3) Other allowances. Except where ~~((an))~~ existing ~~((system))~~ equipment is retrofit, nothing in this chapter requires a person ~~((that))~~ who acquired a product or equipment ~~((containing))~~ that contains or ~~((using))~~ uses a prohibited ~~((substitute))~~ substance prior to the effective date of a prohibition in WAC 173-443-040 to cease use of that product or equipment.

(4) Product labeling and disclosure.

(a) Except as provided in (d) and (e) of this subsection and for products and equipment listed as exempt in WAC 173-443-060, a manufacturer of any new product or equipment listed in Table 1 must disclose the substance(s) contained or used through labeling the product(s) or equipment in accordance with this subsection.

(b) Effective date. The effective date for product labeling and disclosure is January 10, 2021, or one year from the effective date of an applicable prohibition, whichever is later.

(c) Disclosure methods.

(i) A manufacturer of aerosol propellant products must disclose the substance(s) contained or used in such products through one of the following methods:

(A) For aerosol products regulated by the U.S. Consumer Product Safety Commission, the U.S. Food and Drug Administration excluding prescription drug products, or products that are not covered by

(c)(i)(B) of this subsection:

(I) New dedicated label;

(II) On-packaging label;

(III) A label required by another jurisdiction that discloses the substance(s) used or the compliance status of the product; or

(IV) On-product or on-packaging symbol or code; and online disclosure.

(B) For aerosol products regulated by EPA under the Federal Insecticide Fungicide and Rodenticide Act, aerosol products regulated by the Occupational Safety and Health Administration, or aerosol products regulated by the U.S. Food and Drug Administration:

(I) Any option in (c)(ii)(A) through (D) of this subsection; or

(II) A product document, such as a Safety Data Sheet (SDS), that complies with 29 C.F.R. § 1910.1200; and online disclosure if the SDS is not posted online.

(ii) A manufacturer of refrigeration equipment (including refrigeration equipment that contains foam) must disclose the substance(s) contained or used in such equipment through one of the following methods:

(A) For the refrigerant used in household refrigerators and freezers - Compact, and household refrigerators and freezers - Built-in:

(I) New dedicated label;

(II) Underwriters laboratories or equivalent safety label;

(III) A label required by another jurisdiction that discloses the substance(s) used or the compliance status of the equipment; or

(IV) On-product symbol or code; and online disclosure.

(B) For the foam blown in or installed by the manufacturer of household refrigerators and freezers, household refrigerators and freezers - Compact, and household refrigerators and freezers - Built-in:

(I) New dedicated label;

(II) Underwriters laboratories or equivalent safety label;

(III) Owner's manual; or

(IV) On-equipment symbol or code; and online disclosure.

(C) For the refrigerant used in commercial refrigeration equipment:

(I) New dedicated label;

(II) Underwriters laboratories or equivalent safety label;

(III) A label required by another jurisdiction that discloses the substance(s) used or the compliance status of the equipment; or

(IV) On-product symbol or code; and online disclosure.

(D) For the foam blown in or installed by the manufacturer of commercial refrigeration equipment:

- (I) New dedicated label;
- (II) Underwriters laboratories or equivalent safety label;
- (III) Owner's manual; or
- (IV) On-equipment symbol or code; and online disclosure.

(iii) A manufacturer of centrifugal or positive displacement chillers must disclose the substance(s) contained or used in such equipment through one of the following methods:

(A) For the refrigerant used in centrifugal and positive displacement chillers:

- (I) New dedicated label;
- (II) Underwriters laboratories or equivalent safety label;
- (III) A label required by another jurisdiction that discloses the substance(s) used or the compliance status of the equipment; or
- (IV) On-equipment symbol or code; and online disclosure.

(B) For the foam blown in or installed by the manufacturer of centrifugal and positive displacement chillers:

- (I) New dedicated label;
- (II) Underwriters laboratories or equivalent safety label;
- (III) Owner's manual;
- (IV) A label required by another jurisdiction that discloses the substance(s) contained or the compliance status of the equipment; or
- (V) On-product symbol or code; and online disclosure.

(iv) A manufacturer of foam products must disclose the substance(s) contained or used in such products through one of the following methods:

(A) For nonretail foam products, the following methods may be used on a unit or on each individual product within a unit:

- (I) New dedicated label;
- (II) On-packaging label;
- (III) A label required by another jurisdiction that discloses the substance(s) used or the compliance status of the product; or
- (IV) On-product or on-packaging symbol or code; and online disclosure.

(B) For retail foam products:

- (I) New dedicated label;
- (II) On-packaging label;
- (III) A label required by another jurisdiction that discloses the substance(s) used or the compliance status of the product; or
- (IV) On-product or on-packaging symbol or code; and online disclosure.

(C) For the foam blowing agent used in polyurethane foam systems, including spray foam systems:

- (I) New dedicated label on the canister or cylinders;
- (II) Existing product label on the canister or cylinders;
- (III) On-packaging label;
- (IV) A label required by another jurisdiction that discloses the substances(s) used or the compliance status of the product;
- (V) On-packaging symbol or code; and online disclosure.

(v) Online disclosure may occur through online publication of an owner's manual, safety data sheet, or other documentation that provides information about the product to the end-user of the product.

(d) Alternative disclosure methods.

(i) A manufacturer may request approval to use an alternative disclosure method in lieu of the labeling options listed in (c) of

this subsection by submitting a written statement to ecology. The written statement must:

(A) Describe the condition(s) or circumstance(s) that make it infeasible to comply with the labeling requirements of this subsection; and

(B) Propose an alternative disclosure method that satisfactorily communicates the substance(s) used or the compliance status of the product(s) or equipment.

(ii) Ecology will provide a written response to a manufacturer's request to use an alternative disclosure method by approving or denying the request, or requesting additional information, within 30 days of receipt.

(iii) Ecology may approve the request if it determines that the use of a label meeting the requirements in (c) of this subsection is not feasible for the particular product(s) or equipment.

(iv) If ecology approves the request, the effective date of the approval is the date the manufacturer received written confirmation from ecology that its proposed alternative disclosure method may be used to satisfy this subsection.

(e) The requirements of this subsection do not apply to aircraft and aircraft components subject to certification requirements of the Federal Aviation Administration.

(5) Manufacturer reporting.

(a) A manufacturer of a product or equipment that contains or uses prohibited substance(s) as of July 28, 2020, for an end-use listed in Table 1 of this subsection, or a representative of the manufacturer, must report to ecology consistent with (b) and (c) of this subsection.

(i) It is only necessary for one person to report on behalf of the manufacturer for a particular product or equipment.

(ii) In the event of a manufacturer's failure to provide a complete, accurate, and timely report, ecology will require the submittal of the information from related persons or entities in the following order:

(A) The person or entity that manufactured, produced, or assembled the product or equipment, unless that person or entity has no presence in the United States.

(B) The person or entity that marketed the product or equipment under its name or trademark, unless that person or entity has no presence in the United States.

(C) The first person or entity, whether an importer or a distributor, that owned the product or equipment in the United States.

(iii) This subsection in no way limits the liability of any manufacturer, as defined in WAC 173-443-030, associated with the product or equipment from enforcement under chapter 70A.15 RCW.

(b) Initial status notification.

(i) By December 31, 2019, a manufacturer or its representative must provide ecology an initial status notification of the status of all products and equipment within each applicable end-use that contains or uses any prohibited substance(s) listed in WAC 173-443-040, Table 1.

(ii) An initial status notification must include all covered products and equipment that the manufacturer offers for sale, leases, rents, installs, or otherwise causes to enter into Washington commerce.

(iii) A manufacturer must submit an annual status notification using ecology's notification form. The current form is available on ecology's website. This initial status notification must provide:

(A) Contact information for the manufacturer;

(B) The name of the person authorized to represent the manufacturer for purposes of providing initial status notifications and status updates;

(C) All products and equipment within each applicable end-use;

(D) Which HFCs or other prohibited substance(s) are being used within each applicable end-use; and

(E) Signature and certification by the authorized representative for the manufacturer.

(c) Updated status notifications.

(i) Within 120 days after the effective date of a prohibition set forth in WAC 173-443-040, a manufacturer affected by the prohibition must provide ecology with an updated status notification using ecology's form.

(ii) Within 120 days of a manufacturer's introduction into Washington commerce of a new or modified product or equipment that contains or uses a prohibited substance(s) listed in WAC 173-443-040, the manufacturer must provide ecology with an updated status notification using ecology's form.

(iii) The updated status notification required by (c) (i) and (ii) of this subsection must include:

(A) Whether the manufacturer has ceased use of the prohibited substance(s) listed in WAC 173-443-040 for each applicable product(s) or equipment within each end-use;

(B) What, if any, prohibited substance(s) remain in use; and

(C) Updated responses on all information requested in the initial status notification required in (b) of this subsection.

#### NEW SECTION

**WAC 173-443-065 Prohibitions and additional requirements for new or retrofit refrigeration equipment listed in Table 2.** (1) Prohibitions. No person shall offer for sale, lease, rent, install, or otherwise cause to enter into Washington commerce any new refrigeration equipment that contains or uses a prohibited substance listed in WAC 173-443-040, Table 2, unless an exemption is provided for in WAC 173-443-050.

(2) Sell through provision. Refrigeration equipment that is manufactured prior to January 1, 2024, may be sold, leased, rented, installed, or otherwise introduced into Washington commerce until January 1, 2026.

(3) Labeling and disclosure. Beginning one year from the effective date of this chapter, a manufacturer of new refrigeration equipment that is intended for sale or other entry into Washington commerce, must disclose the substance(s) contained or used in its equipment by labeling the equipment in accordance with this subsection. For field-charged or field-erected equipment, this labeling must be completed by the equipment installer at the time of installation.

(a) The following information must be disclosed in the form of an on-product label:



- (i) Chemical name, or American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) designation, of the substance(s) used or contained in the equipment;
  - (ii) The GWP, labeled as "global warming potential," of the substance(s) used or contained in the equipment;
  - (iii) The date of manufacture, or at a minimum, the year of manufacture. For field charged or field erected equipment, this is the date of first charge; and
  - (iv) Full refrigerant charge size in ounces, pounds, or kilograms.
- (b) Existing labels meeting the above requirements may be used.
- (4) Recordkeeping. As of the effective date of this chapter, a manufacturer of any new or retrofit refrigeration equipment must maintain for a minimum of five years, and make available upon request by ecology, a copy of the following records:
- (a) Sector or subsector of the equipment;
  - (b) Refrigerant type the equipment is designed to use;
  - (c) Date of manufacture or import;
  - (d) Name of company or entity to whom the equipment was sold or otherwise distributed;
  - (e) The bill of lading; and
  - (f) The invoice.

#### NEW SECTION

**WAC 173-443-075 Prohibitions and additional requirements for new or retrofit air conditioning equipment listed in Table 3.** (1) Prohibitions. No person shall offer for sale, lease, rent, install, or other cause to enter into Washington commerce any new air conditioning equipment that contains or uses a prohibited substance listed in WAC 173-443-040, Table 3, unless an exemption is provided for in WAC 173-443-050.

(2) Sell through provision. Air conditioning equipment that is manufactured prior to January 1, 2024, may be sold, leased, rented, installed, or otherwise introduced into Washington commerce until January 1, 2026.

(3) Labeling and disclosure. Beginning one year from the effective date of this chapter, a manufacturer of any new air conditioning equipment that is intended for sale or other entry into Washington commerce, must disclose the substance(s) contained or used in its equipment by labeling the equipment in accordance with this subsection. For field-charged or field-erected equipment, this labeling must be completed by the equipment installer, as the manufacturer, at the time of installation.

(a) The following information must be disclosed in the form of an on-product label:

(i) Chemical name, or American Society of Heating and Air Conditioning Engineers (ASHRAE) designation, of the substance(s) used or contained in the equipment;

(ii) The GWP, labeled as "global warming potential," of the substance(s) used or contained in the equipment;

(iii) Date of manufacture or import. For field-erected or field-charged equipment, this is the date of first charge; and

(iv) Refrigerant charge size in ounces, pounds, or kilograms.

(b) Existing labels meeting the above requirements may be used.

(4) Recordkeeping. As of the effective date of this chapter, a manufacturer of any new or retrofit air conditioning equipment, as defined in WAC 173-443-030, must maintain for a minimum of five years, and make available upon request by ecology, a copy of the following records:

- (a) The sector or subsector of the equipment;
- (b) Refrigerant type the equipment is designed to use and its GWP value;
- (c) Date of manufacture or import;
- (d) Model and serial number;
- (e) Name of company or retailer to whom the equipment was sold or otherwise distributed;
- (f) The bill of lading; and
- (g) The invoice.

#### NEW SECTION

**WAC 173-443-085 Prohibitions for small containers of refrigerant and nonessential consumer products listed in Table 4.** Prohibitions. No person shall sell, offer for sale, or purchase a small container of refrigerant or a nonessential consumer product that contains or uses a prohibited substance listed in WAC 173-443-040, Table 4, unless an exemption is provided for in WAC 173-443-050.

#### NEW SECTION

**WAC 173-443-095 Variances.** (1) An applicant may apply to ecology for a variance from the prohibitions of WAC 173-443-040, Table 2 or Table 3. Ecology may grant a variance if it determines that the request meets the conditions identified in subsection (2) of this section and the applicant has complied with subsection (3) of this section.

(2) Types of variances.

(a) Impossibility. Ecology may grant a variance if the applicant demonstrates that the requested exemption will not increase the overall risk to human health or the environment and all of the following apply:

(i) A substance that complies with the applicable threshold is not currently or potentially available; and

(ii) The applicant has made a good faith effort to anticipate, address, and mitigate any potential noncompliance.

(b) Force majeure. Ecology may grant a variance if the applicant demonstrates that the requested exemption will not increase the overall risk to human health or the environment and all of the following apply:

(i) The applicant cannot comply with the applicable prohibitions due to a force majeure event; and

(ii) The applicant has made a good faith effort to anticipate, address, and mitigate the impacts of any force majeure event.

(c) Economic hardship. Ecology may grant a variance if the applicant demonstrates that the requested exemption will not increase the overall risk to human health or the environment and all of the following apply:

(i) The applicant owns or operates a retail food facility or a small business, as defined in WAC 173-443-030;

(ii) Compliance with the applicable prohibitions would result in closure of the entire retail food facility or small business, or a large portion thereof, or a substantial loss of revenue from the retail food facility or small business; and

(iii) The applicant has made a good faith effort to anticipate, address, and mitigate any potential noncompliance.

(3) Application process. To apply for a variance, the applicant must submit an application that meets the requirements of (a) through (i) of this subsection:

(a) Applicant name, ownership status, address, telephone number, and email address;

(b) Description of business activity or product description;

(c) The specific prohibition(s) for which a variance is requested;

(d) An explanation of the reasons for seeking a variance;

(e) Evidence demonstrating how the variance request meets the criteria identified in subsection (2)(a) or (b) or (c) of this section;

(f) Length of variance requested and the earliest date when compliance can be achieved;

(g) A description of the damage or harm that will result from having to comply with the applicable prohibition(s) within the required time frame;

(h) A proposed compliance plan describing how and when compliance with the applicable prohibition(s) will be achieved after the variance is granted. The compliance plan must include all of the following:

(i) The method(s) by which compliance will be achieved;

(ii) Milestone achievements;

(iii) Milestone dates; and

(iv) A proposed mitigation plan that demonstrates how the applicant will reduce greenhouse gas emissions while the variance is in place. The mitigation plan must include all calculations used to determine emissions estimates.

(i) The application must be submitted in writing to either of the following addresses:

Ecology Air Quality Program

HFC Program

P.O. Box 47600

Olympia, WA 98504-7600; or

By email to: HFC@ecology.wa.gov

(4) Approval and disapproval process.

(a) Ecology will determine whether the variance application is complete and will notify the applicant of its completeness determination within 30 days of receipt of the application. Only complete applications will be considered.

(b) Within 60 days of determining that a variance application is complete, ecology will notify the applicant of the decision in writing, and if approved, will specify the terms and conditions of the variance in a letter to the applicant. The applicant and ecology may mutually agree to a longer time period for ecology's review period.

(c) During the review period, ecology may request, and the applicant must provide, more information as needed to reach a decision.

(d) Ecology will grant a variance only to the applicant. The variance is not transferable.

(e) Ecology will not approve a variance retroactively to any date prior to receipt of the application.

(f) An applicant adversely affected by ecology's denial of a variance or by the terms and conditions of an approved variance may appeal ecology's decision to the pollution control hearings board pursuant to chapter 43.21B RCW.

(5) Failure to comply with the terms and conditions of an approved variance.

(a) An applicant must comply with the terms and conditions of an approved variance to maintain its approved status.

(b) Ecology may revoke or modify the variance approval if it determines that an applicant no longer meets the criteria specified in the variance approval letter.

(c) An applicant adversely affected by an ecology decision to revoke or modify an approved variance may appeal ecology's decision to the pollution control hearings board pursuant to chapter 43.21B RCW.

## PART II - REFRIGERANT MANAGEMENT PROGRAM

### NEW SECTION

**WAC 173-443-105 Refrigerant management program (RMP) purpose and applicability.** (1) The purpose of the RMP is to reduce greenhouse gas emissions from stationary refrigeration and air conditioning systems and from the installation and servicing of stationary refrigeration and air conditioning systems using a refrigerant with a GWP of 150 or more.

(2) The RMP requirements apply to:

(a) Any owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 50 pounds and that uses a refrigerant with a GWP of 150 or more;

(b) Any person who installs, repairs, maintains, services, or disposes of refrigeration or air conditioning equipment; and

(c) Any person who wholesales, distributes, or reclaims any amount of a refrigerant with a GWP of 150 or more in Washington.

### NEW SECTION

**WAC 173-443-115 Registration requirements for facilities with refrigeration or air conditioning systems.** (1) Full charge of 1,500 pounds or greater. The owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 1,500 pounds and that uses a refrigerant with a GWP of 150 or more must register with ecology by providing the information specified in subsection (6) of this section as follows:

(a) By March 15, 2024, for refrigeration or air conditioning systems that begin operations on or before January 1, 2024; or

(b) By March 15th of the calendar year after the year in which the refrigeration or air conditioning system begins operations for systems that begin operating after January 1, 2024.

(2) Full charge of 200 to 1,499 pounds. The owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than 199 pounds, but less than 1,500 pounds and that uses a refrigerant with a GWP of 150 or more must register with ecology by providing the information specified in subsection (6) of this section as follows:

(a) By March 15, 2026, for refrigeration or air conditioning systems that begin operations on or before January 1, 2026; or

(b) By March 15th of the calendar year after the year in which the refrigeration or air conditioning system begins operations for systems that begin operating after January 1, 2026.

(3) Full charge of 50 to 199 pounds. The owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 50 pounds, but less than 200 pounds and that uses a refrigerant with a GWP of 150 or more must register with ecology by providing the information specified in subsection (6) of this section as follows:

(a) By March 15, 2028, for refrigeration or air conditioning systems that begin operations on or before January 1, 2028; or

(b) By March 15th of the calendar year after the year in which the refrigeration or air conditioning system begins operations for systems that begin operating after January 1, 2028.

(4) New owners. If there is a change of ownership of a facility that has been registered in accordance with this section, the new owner or operator must register with ecology by March 15th of the calendar year after the change of ownership occurred.

(5) New facilities. The owner or operator of a newly constructed facility, or a facility that is converted for a use that is subject to this chapter, must register the facility with ecology within three months of beginning refrigeration or air conditioning system operations.

(6) Registration information. To register, the owner or operator must provide the following information through the Washington RMP reporting system:

(a) Facility information:

(i) Facility identification number. The identification number for each facility will be assigned by the WA RMP data reporting system;

(ii) Name of facility;

(iii) Name of owner(s);

(iv) Name of operator(s), if different than the owner(s);

(v) North American Industry Classification System (NAICS) code;

(vi) Facility mailing address including street address, city, state, and zip code;

(vii) Facility physical address including street address, city, state, and zip code;

(viii) Facility contact person; and

(ix) Facility contact person's phone number and email address.

(b) Refrigeration or air conditioning system information:

(i) System identification number. The identification number for each system will be assigned by the WA RMP data reporting system;

(ii) System type. The system type must include whether it is a refrigeration or air conditioning system and the specific end-use;

(iii) Equipment manufacturer;

(iv) Equipment model and model year;

(v) Equipment serial number. If the equipment is part of an assembly without a serial number or the serial number is not accessible after assembly, the physical location of the equipment must be recorded;

(vi) Temperature classification. Refrigeration systems must be identified as a very low-temperature, low-temperature, or medium-temperature system, or other;

(vii) Full charge the system is designed for in order to maintain normal operating characteristics;

(viii) Type of refrigerant(s) used with a GWP of 150 or more; and

(ix) Operational status. The operational status may be reported as operated year-round, mothballed, standby or emergency, not operated year-round, or retired.

(7) Change of ownership. Prior to any change of ownership of a facility that has been registered in accordance with this section, the seller must ensure all of the following are completed:

(a) The seller must confirm that the registered refrigeration or air conditioning system is free of refrigerant leaks through a leak inspection performed by a technician certified by EPA under 40 C.F.R. § 82.161;

(b) The seller must inform the prospective buyer of the registration requirements of this section; and

(c) The seller must submit a change of ownership notification to ecology that includes all of the following:

(i) Seller information:

(A) Facility identification number as it appears in the WA RMP data reporting system;

(B) Name of owner or operator; and

(C) Name of facility.

(ii) Prospective buyer information:

(A) Name of owner(s);

(B) Name of operator(s), if different than the owner(s);

(C) Name of facility;

(D) Facility mailing address, including street address, city, state, and zip code;

(E) Facility contact person; and

(F) Facility contact person phone number and email address.

#### NEW SECTION

**WAC 173-443-125 Registration requirements for refrigerant wholesalers, distributors, and reclaimers.** (1) By March 15, 2024, a refrigerant wholesaler, distributor, or reclaimer that sells, supplies, distributes, or reclaims any amount of a refrigerant with a GWP of 150 or more in Washington for any purpose, other than those listed in subsection (2) of this section, must register with ecology by providing the information specified in subsection (3) of this section.

(2) This section does not apply to the sale, supply, distribution, or reclamation of refrigerants for the sole purpose of either:

(a) Selling to a refrigerant distributor or wholesaler for eventual resale; or

(b) Providing to a person for reclamation or destruction.

(3) (a) Registration information. A refrigerant wholesaler, distributor, or reclaimer must provide the following information to ecology through the Washington RMP reporting system:

(b) Facility information:

- (i) Name of facility;
- (ii) Name of owner(s);
- (iii) North American Industry Classification (NAICS) code;
- (iv) Facility mailing address, including street address, city, state, and zip code;
- (v) Facility physical address, including street address, city, state, and zip code;
- (vi) Facility contact person;
- (vii) Facility contact person's phone number and email address;
- (viii) Name and physical address of each wholesale, distribution, or reclaim facility under the registrant's operational control; and
- (ix) Name and email address of contact person for each wholesale, distribution, or reclaim facility under the registrant's operational control.

(4) Change of ownership. Prior to any change of ownership of an entity that has been registered pursuant to this section, the seller must ensure all of the following are completed:

- (a) The facility must be registered in accordance with this section;
- (b) The seller must inform the prospective buyer of the registration requirements of this section; and
- (c) The seller must submit a change of ownership notification to ecology that includes all of the following:
  - (i) Seller information:
    - (A) Name of facility;
    - (B) Facility identification number; as it appears in the WA RMP data reporting system; and
    - (C) Name of person selling the facility;
  - (ii) Prospective buyer information:
    - (A) Name of person(s) buying the facility;
    - (B) Facility mailing address including a street address, city, state, and zip code;
    - (C) Facility contact person; and
    - (D) Facility contact person's phone number and email address.

#### NEW SECTION

**WAC 173-443-135 Implementation fees for facilities with refrigeration or air conditioning systems.** (1) Initial implementation fee. An initial implementation fee must be paid by each owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 1,500 pounds and that uses a refrigerant with a GWP of 150 or more.

(a) The initial implementation fee is due and payable to ecology within 30 days of receipt of the invoice.

(b) The amount of the initial implementation fee is \$150. A facility with a regulated refrigeration system and a regulated air conditioning system pays a single initial implementation fee for the facility.

(2) Annual implementation fee. An annual implementation fee must be paid by each owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 200 pounds and that uses a refrigerant with a GWP of 150 or more.

(a) The annual implementation fee is due and payable to ecology no later than 30 days of receipt of the annual invoice, beginning with the year in which the initial implementation fee is required under subsection (1) of this section.

(b) The amount of the annual implementation fee is determined by this subsection. If the facility has more than one refrigeration or air conditioning system, the amount of the fee is based on the regulated refrigeration system or regulated air conditioning system operating at the facility with the largest refrigerant charge size.

(i) Systems with a full charge of 1,500 or more pounds.

(A) Beginning January 1, 2024, the annual implementation fee for facilities that have a refrigeration or air conditioning system with a full charge of 1,500 pounds or greater is \$370.

(B) Beginning January 1, 2025, and each year thereafter, the amount of the annual implementation fee will be established in accordance with WAC 173-455-160.

(ii) Systems with a full charge of 200 to 1,499 pounds.

(A) Beginning January 1, 2026, the annual implementation fee for facilities that have a refrigeration or air conditioning system with a full charge of 200 to 1,499 pounds is \$170.

(B) Beginning January 1, 2027, and each year thereafter, the amount of the annual implementation fee will be established in accordance with WAC 173-455-160.

(3) There are no initial or annual implementation fees for facilities with refrigeration or air conditioning systems with a full charge of less than 200 pounds of refrigerant.

(4) There are no initial or annual implementation fees for refrigerant wholesalers, distributors, or reclaimers.

#### NEW SECTION

##### **WAC 173-443-145 Leak detection and monitoring requirements.**

(1)(a) Leak inspection requirements for year-round refrigeration and air conditioning systems with a full charge greater than or equal to 1,500 pounds.

(b) Beginning January 1, 2024, the owner or operator of a facility that has a refrigeration or air conditioning system with a full charge capacity greater than or equal to 1,500 pounds and that uses a refrigerant with a GWP of 150 or more, that is intended to operate year-round, must do all of the following:

(i) Conduct a leak inspection of the full system each month using a calibrated refrigerant leak detection device, or bubble test, unless an automatic leak detection system that meets the requirements of subsection (2)(b) or (c) of this section is installed and functioning correctly on the full system. If a certified technician performs the inspection, the inspection may be conducted using methods determined appropriate by the certified technician.

(ii) Conduct a leak inspection of the full system at the time of verification test or follow-up verification test following a leak repair.

(iii) Conduct a leak inspection of the full system each time refrigerant is added to the system in an amount equal to or greater than five pounds, or one percent of the full charge, whichever is greater.



(iv) Conduct a leak inspection of the full system each time oil residue is observed on any refrigerant circuit component indicating a refrigerant leak.

(2) Automatic leak detection requirements for refrigeration systems with a full charge of 1,500 pounds or more.

(a) The owner or operator of a refrigeration system with a full charge greater than or equal to 1,500 pounds and that uses a refrigerant with a GWP of 150 or more, that is intended to operate year-round, must do the following:

(i) By January 1, 2025, install an automatic leak detection system that meets the requirements of (b) or (c) of this subsection if:

(A) The refrigerant circuit is located entirely within an enclosed building or structure; or

(B) The compressor, evaporator, condenser, or any other component of the refrigeration system is located inside an enclosed building or structure.

(ii) Installation of an automatic leak detection system under (b) or (c) of this subsection is not required if the refrigeration system will be replaced or retrofitted to use a refrigerant with a GWP of less than 150 before January 1, 2027. Written documentation of the intent to transition and the anticipated timeline for the transition must be signed by the facility's representative and kept in accordance with WAC 173-443-195.

(b) For an automatic leak detection system that detects the presence of refrigerant in the air, the automatic leak detection system must be annually audited and calibrated using the manufacturer-recommended procedures so that it:

(i) Accurately detects a concentration level of 10 parts per million of vapor of the specific refrigerant(s) used in the refrigeration system; and

(ii) Alerts the operator when a refrigerant concentration of 100 parts per million of vapor of the refrigerant(s) is reached.

(c) For an automatic leak detection system that interprets measurements to indicate a refrigerant leak, the automatic leak detection system must be annually audited and calibrated using manufacturer-recommended procedures so that it will alert the owner or operator when measurements indicate a loss of 50 pounds of refrigerant or 10 percent of the system's full charge, whichever is less.

(d) If an automatic leak detection system alerts the owner or operator of a leak, a leak inspection must be performed on the system within 24 hours of the alert. The leak inspection must be conducted using a calibrated refrigerant leak detection device, a bubble test, or as determined by a certified technician to confirm a refrigerant leak and determine the location.

(3)(a) Leak inspection requirements for year-round refrigeration and air conditioning systems with a full charge greater than or equal to 200 pounds but less than 1,500 pounds.

(b) Beginning January 1, 2026, the owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 200 pounds but less than 1,500 pounds, that is intended to operate year-round, must do all of the following:

(i) Conduct a leak inspection of the full system at least once every three months using a calibrated refrigerant leak detection device, or bubble test, unless an automatic leak detection system that meets the requirements of subsection (2)(b) or (c) of this section is installed and functioning correctly on the system.

(ii) Conduct a leak inspection of the full system at the time of verification test or follow-up verification test following a leak repair.

(iii) Conduct a leak inspection of the full system each time refrigerant is added to the system in an amount equal to or greater than five pounds, or one percent of the full charge, whichever is greater.

(iv) Conduct a leak inspection of the full system each time oil residue is observed on any refrigerant circuit component indicating a refrigerant leak.

(4) (a) Leak inspection requirements for year-round refrigeration and air conditioning systems with a full charge greater than or equal to 50 pounds, but less than 200 pounds.

(b) Beginning January 1, 2028, the owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 50 pounds, but less than 200 pounds, that is intended to operate year-round must do all of the following:

(i) Conduct a leak inspection of the full system at least once each year using a calibrated refrigerant leak detection device, or bubble test, unless an automatic leak detection system that meets the requirements of subsection (2) (b) or (c) of this section is installed and functioning correctly on the system.

(ii) Conduct a leak inspection of the full system at the time of verification test or follow-up verification test following a leak repair.

(iii) Conduct a leak inspection of the full system each time refrigerant is added to the system in an amount equal to or greater than five pounds, or one percent of the full charge, whichever is greater.

(iv) Conduct a leak inspection of the full system each time oil residue is observed on any refrigerant circuit component indicating a refrigerant leak.

(5) Leak inspection requirements for refrigeration and air conditioning systems not operated year-round.

(a) The owner or operator of a facility that has a refrigeration or air conditioning system that is not intended to operate year-round must conduct a leak inspection of the full system within 30 days after starting each operation of the system, and once every three months thereafter until the system is shut down.

(b) The leak inspections must be conducted using a calibrated refrigerant detection device, or bubble test.

(6) Leak detection and monitoring during system mothballing. The requirements of this section do not apply during the time that a system is undergoing mothballing. The requirements of this section will apply on the day the mothballed system resumes operation.

(7) Leak inspection requirement for systems in stand-by or emergency status. The requirements of this section apply to refrigeration or air conditioning systems in stand-by or emergency status.

#### NEW SECTION

**WAC 173-443-155 Leak rate thresholds and notification requirements.** (1) The owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 50 pounds and that uses a refrigerant with a GWP of 150 or more must ensure that the leak rate of the system is calculated during each leak inspection and each time refrigerant is added to the system.

(2) The leak rate must be calculated using the 12-month rolling average method, as defined in WAC 173-443-030, and the results of each calculation must be kept on file in accordance with WAC 173-443-195.

(3) The owner or operator of a facility that has a refrigeration or air conditioning system that exceeds the applicable leak rate threshold, based on the 12-month rolling average, must notify ecology, through the WA RMP data reporting system, within 30 days of determination of each exceedance. The leak rate thresholds are as follows:

(a) Sixteen percent for a retail food refrigeration system, or cold storage warehouse;

(b) Twenty-four percent for an industrial process refrigeration system; or

(c) Eight percent for an air conditioning system.

(4) Following the notification required by subsection (3) of this section, the owner or operator of a facility that has a refrigeration or air conditioning system that exceeds the applicable leak rate threshold must also notify ecology of the following information by the specified deadlines:

(a) The results of a verification test required under WAC 173-443-165(5), no later than 30 days after expiration of the leak repair time frame under WAC 173-443-165 (7) (a);

(b) The results of a follow-up verification test, if required under WAC 173-443-165(6), no later than 30 days after completing the follow-up verification test; and

(c) Within 30 days of completion of all work described in a retrofit or retirement plan prepared in accordance with WAC 173-443-175.

#### NEW SECTION

**WAC 173-443-165 Leak repair requirements.** (1) Beginning January 1, 2024, the owner or operator of a facility that has a refrigeration or air conditioning system with a refrigerant charge greater than or equal to 50 pounds and that uses a refrigerant with a GWP of 150 or more must ensure that all detected refrigerant leaks are repaired as provided in this section and must maintain records of all repairs in accordance with WAC 173-443-195.

(2) Fourteen-day requirement. A refrigerant leak must be repaired by a certified technician, as defined in WAC 173-443-030, within 14 calendar days of its detection, except when a longer period is allowed under subsection (3) or (4) of this section.

(3) Forty-five-day allowance. The time period for repair of an identified refrigerant leak is up to 45 days if one or more of the following conditions apply:

(a) A certified technician is not available to complete the repair or replace the component(s). A written record must be kept in accordance with WAC 173-443-195, documenting that the owner or operator exercised due diligence in seeking the services of a certified technician immediately following detection of the leak and that no certified technician was available to complete the repair within 14 calendar days of the initial leak detection;

(b) The parts necessary to repair a leak are unavailable. A written record must be kept in accordance with WAC 173-443-195, documenting that the necessary parts were unavailable within 14 calendar days of the initial leak detection. The record must include a written statement from the certified technician regarding the necessity of the

parts and a written statement from the manufacturer regarding the availability of the parts; or

(c) The leak repair requires an industrial process shutdown that results in an industrial process temporarily ceasing to manufacture the desired product. A written record must be kept in accordance with WAC 173-443-195, documenting why the repair requires an industrial process shutdown and how long the shutdown would last.

(4) One hundred twenty-day allowance. The time period for a repair of an identified refrigerant leak is up to 120 days if all of the following conditions apply:

(a) The facility owner or operator is an entity subject to the mandatory reporting of greenhouse gas emissions under chapter 173-441 WAC;

(b) The leaking system is an industrial process refrigeration system;

(c) The leak repair requires an industrial process shutdown that results in ceasing to manufacture the desired product; and

(d) The owner or operator maintains written records documenting that the conditions in (a) through (c) of this subsection are met, in accordance with WAC 173-443-195.

(5) Verification test. A verification test must be conducted upon completion of any leak repair.

(6) Follow-up verification test. If a refrigeration or air conditioning system is evacuated during a leak repair, a follow-up verification test must be conducted within 14 days of the system reaching normal operating conditions.

(7) Refrigerant leak repair requirements after an unsuccessful verification test. If an initial or follow-up verification test indicates that a refrigerant leak is still occurring, and there is not an approved exemption in place under WAC 173-443-235, the owner or operator must do one of the following:

(a) Prepare a retrofit or retirement plan in accordance with WAC 173-443-175; or

(b) Ensure the leak is repaired through a subsequent repair attempt(s) within a second time frame that equals the same number of days allowed under subsections (2) through (4) of this section as follows:

(i) Within 28 days of the initial leak detection, if the repair time frame is 14 days, under subsection (2) of this section; or

(ii) Within 90 days of the initial leak detection, if the repair time frame is 45 days, under subsection (3) of this section; or

(iii) Within 240 days of the initial leak detection, if the repair time frame is 120 days, under subsection (4) of this section.

(8) Leak repair requirements during system mothballing. The requirements of this section do not apply during the time that a refrigeration or air conditioning system is undergoing mothballing. The requirements of this section will apply on the day the mothballed system resumes operation.

#### NEW SECTION

**WAC 173-443-175 Requirements to prepare and implement a retrofit or retirement plan.** (1) The owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 50 pounds and that uses a refrigerant with a GWP of

150 or more that is not repaired within the time frame provided in WAC 173-443-165 (2) through (4), and does not have an approved exemption under WAC 173-443-235, must prepare and implement a retrofit or retirement plan that meets all of the following conditions:

(a) The plan must establish a schedule to retrofit or retire a leaking refrigeration or air conditioning system for no later than six months after expiration of the second leak repair time frame under WAC 173-443-165 (7)(a). All work must be completed in this six-month period;

(b) The plan must be kept at the facility with the leaking refrigeration or air conditioning system in accordance with WAC 173-443-195;

(c) The plan must describe the retrofitted system, or the new system if an existing system is being replaced, and include the following:

(i) System identification number as it appears in the WA RMP reporting system registration;

(ii) System type;

(iii) Equipment manufacturer;

(iv) Equipment model or description;

(v) Temperature classification. A refrigeration system must be identified as a very low, low, medium, or other temperature system;

(vi) Full refrigerant charge;

(vii) Type of refrigerant to be used;

(viii) A timetable that includes the expected beginning date and completion date for the installation, construction, or retrofit; and

(ix) A signature by a representative of the facility and date signed.

(2) A retrofit or retirement plan prepared in accordance with subsection (1) of this section must be submitted to ecology if the applicable leak rate threshold, based on the 12-month rolling average, is exceeded. The plan must be submitted no later than 90 days following expiration of the leak repair time frame in WAC 173-443-165

(7)(a).

(3) Retrofit or retirement plans during system mothballing. The requirements of this section do not apply during the time that a refrigeration or air conditioning system is undergoing mothballing. The requirements of this section will apply on the day the mothballed system resumes operation.

#### NEW SECTION

**WAC 173-443-185 Reporting requirements.** (1) The owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 200 pounds and that uses a refrigerant with a GWP of 150 or more must submit an annual facility refrigeration or air conditioning report (annual report) to ecology each year.

(2) Annual reports must be submitted to ecology by March 15th for the previous calendar year the refrigeration or air conditioning system was in operation and must continue each calendar year thereafter. Annual reports must be submitted by the following dates:

(a) By March 15, 2025, for a refrigeration or air conditioning system with a full charge greater than or equal to 1,500 pounds that begins operation before January 1, 2024.

(b) For a refrigeration or air conditioning system with a full charge greater than or equal to 1,500 pounds that begins operation on or after January 1, 2024, the annual report must be submitted by March 15th of the year after the calendar year in which the system begins operation.

(c) By March 15, 2027, for a refrigeration or air conditioning system with a full charge greater than or equal to 200 pounds, but less than 1,500 pounds, that begins operation before January 1, 2026.

(d) For a refrigeration or air conditioning system with a full charge greater than or equal to 200 pounds, but less than 1,500 pounds, that begins operation on or after January 1, 2026, the annual report must be submitted by March 15th of the year after the calendar year in which the system begins operation.

(3) Annual reports must include the following information for the previous calendar year for each refrigeration or air conditioning system with a full charge greater than or equal to 200 pounds and that uses a refrigerant with a GWP of 150 or more:

(a) System information.

(i) System identification number as it appears in the WA RMP reporting system registration;

(ii) System type;

(iii) Equipment manufacturer;

(iv) Equipment model or description and model year;

(v) Equipment serial number. If the equipment is part of an assembly without a serial number, or the serial number is not accessible after assembly, the physical location of the equipment must be identified;

(vi) Temperature classification. A refrigeration system must be identified as a very low, low, medium, or other temperature system;

(vii) Total refrigerant charge of system;

(viii) Type of refrigerant(s) with a GWP of 150 or more used;

(ix) Date of initial installation; and

(x) Operational status. The operational status may be reported as operated year-round, mothballed, standby or emergency, not operated year-round, or retired.

(b) Service and leak repair information.

(i) Annual leak rate as calculated based on 12-month rolling average method;

(ii) Date of each leak inspection;

(iii) Date of each leak detection;

(iv) Date of service(s) or leak repair(s) completed;

(c) Refrigerant purchases and use information.

(i) Total weight in pounds of each type of refrigerant with a GWP of 150 or more purchased;

(ii) Total weight in pounds of each type of refrigerant with a GWP of 150 or more charged into the system;

(iii) Total weight in pounds of each type of refrigerant with a GWP of 150 or more recovered from the system;

(iv) Total weight in pounds of each type of refrigerant with a GWP of 150 or more stored in inventory at the facility, or stored at a different location for use in the facility, on the last day of the calendar year; and

(v) Total weight in pounds of any refrigerant with a GWP of 150 or more that was shipped by the owner or operator for reclamation and for destruction.

NEW SECTION

**WAC 173-443-195 Recordkeeping requirements.** (1) Beginning January 1, 2024, the owner or operator of a facility that has a refrigeration or air conditioning system with a full charge greater than or equal to 50 pounds and that uses a refrigerant with a GWP of 150 or more must maintain the following records for a minimum of five years:

- (a) All registration information required in WAC 173-443-115;
  - (b) Documentation of all leak detection systems, leak inspections, and annual audit and calibrations for automatic leak detection systems and leak rate calculations, as defined in WAC 173-443-030;
  - (c) Records of system service and refrigerant leak repairs and documentation of any conditions allowing more than 14 days to repair a refrigerant leak after detection under WAC 173-443-165 (3) or (4);
  - (d) Any retrofit or retirement plan required under WAC 173-443-175;
  - (e) All reports required by WAC 173-443-185;
  - (f) Any application for an exemption under WAC 173-443-235 and any ecology notification of approval, denial, revocation, or modification of an exemption;
  - (g) Any plan or other written documentation required under WAC 173-443-145 (2) (a) (ii), signed by the facility's representative, indicating that the refrigeration or air conditioning system will be replaced or retrofitted to a refrigerant with a GWP of less than 150 before January 1, 2027;
  - (h) Invoices of all purchases of refrigerant(s) with a GWP of 150 or more;
  - (i) Records of all shipments of refrigerant(s) with a GWP of 150 or more for reclamation or destruction. The records must include all of the following information:
    - (i) Name and address of the person the refrigerant was shipped to;
    - (ii) Date of shipment;
    - (iii) Type of refrigerant shipped;
    - (iv) Purpose of shipment (e.g., reclamation or destruction); and
  - (j) Records of all refrigeration or air conditioning systems component data, measurements, calculations, and assumptions used to determine the full charge.
- (2) The records in subsection (1) of this section must be kept at the facility where the refrigeration or air conditioning system is in operation and must be made available to an authorized representative of ecology's HFC program upon request.

NEW SECTION

**WAC 173-443-205 Required service practices.** A person performing any installation, maintenance, service, repair, or disposal of a refrigeration or air conditioning system with a full charge greater than or equal to 50 pounds and that uses a refrigerant with a GWP of 150 or more must comply with all of the following conditions:

- (1) The person must hold a current, valid, and applicable certificate issued under 40 C.F.R. § 82.161 (as amended November 18, 2016);
- (2) In preparing equipment for recycling or disposal, the person may not intentionally disrupt the refrigerant circuit resulting in a

discharge to the atmosphere unless an attempt to recover the refrigerant is made using certified refrigerant recovery equipment;

(3) The person must evacuate the equipment in accordance with 40 C.F.R. § 82.156 when evacuation is required before opening equipment to atmospheric conditions. Refrigerant may be returned to the equipment from which it is recovered or to another piece of equipment owned by the same person without being recycled or reclaimed;

(4) The person may not add an additional refrigerant charge unless the refrigerant being added:

(a) Consists wholly of a regulated refrigerant as defined in WAC 173-443-030;

(b) Is an acceptable alternative under the EPA Significant New Alternatives Policy (SNAP) program for the specific equipment;

(5) The person may not add an additional refrigerant charge to equipment known to have a refrigerant leak unless the additional charge is needed to maintain operations while preparing for or conducting a leak repair.

(6) The person must use refrigerant recovery or recycling equipment certified by EPA under 40 C.F.R. § 82.158 (as amended November 18, 2016).

(7) The person must evacuate refrigerant from a nonrefillable cylinder to a vacuum of 15 inches of mercury, relative to standard atmospheric pressure of 29.9 inches of mercury, before recycling or disposal; and

(8) The person must satisfy job site evacuation of refrigerants during recycling, recovering, reclaiming, or disposing in accordance with Title 40 C.F.R. § 82.156 (as amended November 18, 2016).

#### NEW SECTION

**WAC 173-443-215 Reporting requirements for refrigerant wholesalers, distributors, and reclaimers.** (1) Refrigerant distributors or wholesalers.

(a) A refrigerant distributor or wholesaler that sells, supplies, or distributes any amount of refrigerant with a GWP of 150 or more in Washington for any purpose, other than those listed in (b) of this subsection, must submit an annual report to ecology in accordance with this subsection.

(b) This subsection does not apply to the sale, supply, or distribution of refrigerants with a GWP of 150 or more for the sole purpose of either:

(i) Selling to a refrigerant distributor or wholesaler for eventual resale; or

(ii) Providing to a person for reclamation or destruction.

(c) The annual report must be submitted by March 15, 2025, for the previous calendar year and must continue to be submitted by March 15th of each year thereafter for the previous calendar year.

(d) The annual report must cover all facilities in Washington under the operational control of the refrigerant distributor or wholesaler.

(e) The annual report must provide annual statewide aggregated data and must include all of the following information:

(i) Contact information:

(A) Name of refrigerant wholesaler or distributor facility;



(B) Facility identification number as it appears in the WA RMP data reporting system;

(C) Mailing address, including street address, city, state, and zip code;

(D) Name of contact person;

(E) Contact person's phone number and email address;

(F) Name of each distributor or wholesaler facility under operational control;

(G) Address of each distributor or wholesaler facility under operational control; and

(H) Contact person's name, phone number, and email address for each refrigerant distributor or wholesaler facility under operational control.

(ii) Refrigerant distribution information:

(A) Total statewide annual aggregated weight in pounds of each type of refrigerant with a GWP of 150 or more purchased or received for subsequent resale or delivery; and

(B) Total statewide annual aggregated weight in pounds of each type of refrigerant with a GWP of 150 or more sold or distributed to a facility in Washington.

(2) Refrigerant reclaimers.

(a) A certified refrigerant reclaimer that reclaims any refrigerant with a GWP of 150 or more in Washington must submit an annual report to ecology in accordance with this subsection;

(b) The annual report must be submitted by March 15, 2025, for the previous calendar year, and must continue to be submitted by March 15th of each year thereafter for the previous calendar year;

(c) The annual report must cover all facilities in Washington under the operational control of the certified refrigerant reclaimer;

(d) The annual report must provide annual statewide aggregate data and must include all of the following information:

(i) Contact information:

(A) Name of certified reclaimer facility;

(B) Facility identification number as it appears in the WA RMP data reporting system;

(C) Mailing address including street address, city, state, and zip code;

(D) Name of contact person;

(E) Email address of contact person;

(F) Name of each refrigerant reclaiming facility under operational control;

(G) Address of each refrigerant reclaiming facility under operational control; and

(H) Contact person's name, address, phone number, and email address for each reclaiming facility under operational control.

(ii) Refrigerant reclamation information:

(A) Total statewide annual aggregated weight in pounds of refrigerant with a GWP of 150 or more that was received by the certified reclaimer for reclamation or destruction;

(B) Total statewide annual aggregated weight in pounds of refrigerant with a GWP of 150 or more that was shipped out of Washington for reclamation; and

(C) Total statewide annual aggregated weight in pounds of refrigerant with a GWP of 150 or more that was shipped out of Washington for destruction.

NEW SECTION

**WAC 173-443-225 Recordkeeping requirements for refrigerant wholesalers, distributors, and reclaimers.** (1) Beginning January 1, 2024, a refrigerant distributor, wholesaler, or reclaimer of a refrigerant with a GWP of 150 or more must keep all of the following records for a minimum of five years:

(a) Annual reports submitted pursuant to WAC 173-443-215;

(b) Invoices of all refrigerant(s) with a GWP of 150 or more received through sale or transfer and all refrigerant(s) distributed for sale or transfer. These invoices must include all of the following information:

(i) Name of the purchaser;

(ii) Date of sale or transfer;

(iii) Quantity sold or transferred; and

(iv) Type of refrigerant(s) with a GWP of 150 or more purchased, sold, or transferred.

(2) A refrigerant distributor or wholesaler selling a refrigerant with a GWP of 150 or more to a purchaser that is an employer of a certified technician must obtain written documentation showing that the purchaser currently employs at least one certified technician.

(3) The records identified in subsections (1) and (2) of this section must be kept at the facility of the refrigerant distributor or wholesaler and must be made available to an authorized representative of ecology's HFC program upon request.

NEW SECTION

**WAC 173-443-235 Exemptions.** (1) The owner or operator of a facility that has a refrigeration or air conditioning system may apply to ecology for an exemption from the requirements of WAC 173-443-165 or 173-443-175. Ecology may grant an exemption if it determines the request meets the conditions identified in subsection (2) of this section and the applicant has complied with subsection (3) of this section.

(2) Types of exemptions.

(a) Impossibility. Ecology may grant an exemption if the applicant provides clear and convincing documentation that the requested exemption will not increase the overall risk to human health or the environment and that at least one of the following criteria is met:

(i) The component(s) or parts needed to complete a leak repair are not currently or potentially available; or

(ii) The applicant has made a good faith effort to repair all identified leaks in accordance with WAC 173-443-165 and to operate and maintain the system in accordance with manufacturer recommendations.

(b) Force majeure. Ecology may grant an exemption if the applicant provides clear and convincing documentation that the requested exemption will not increase the overall risk to human health or the environment and that all of the following criteria are met:

(i) The applicant cannot comply with the applicable requirements due to a force majeure event; and

(ii) The applicant has made a good faith effort to anticipate, address, and mitigate the impacts of any force majeure event.

(c) Economic hardship. Ecology may grant an exemption if the applicant provides clear and convincing documentation that the requested

exemption will not increase the overall risk to human health or the environment and that all of the following criteria are met:

(i) The facility is a retail food facility or a small business, as defined in WAC 173-443-030;

(ii) Compliance with the applicable requirements would result in extreme financial hardship such as the closure of the facility or a substantial loss of revenue from the facility; and

(iii) The applicant has made a good faith effort to anticipate, address, and mitigate any potential noncompliance.

(3) Application process.

(a) Applicant. If the facility's owner(s) and operator(s) are different persons or entities, the application for an exemption must be submitted by the operator(s) and must include an attestation signed by the owner(s) indicating they have reviewed and verified the accuracy of the information contained in the application.

(b) To apply for an exemption, the applicant must submit an application that meets the requirements of (b)(i) through (vii) of this subsection:

(i) Applicant contact information:

(A) Name of facility;

(B) Facility owner(s);

(C) Facility operator(s), if different than the owner;

(D) Type of business or business activity;

(E) Facility address, including street address, city, state, and zip code;

(F) Facility contact phone number and email address;

(ii) The specific requirement(s) for which an exemption is requested;

(iii) An explanation of the reasons for seeking an exemption;

(iv) Documentation that the criteria for one or more of the types of exemptions set forth in subsection (2)(a) or (b) or (c) of this section is met;

(v) Length of time for which the exemption is requested and the earliest date when compliance can be achieved;

(vi) A description of the damage or harm that will result from having to comply with the applicable requirements within the required time frame; and

(vii) A proposed compliance plan describing how and when compliance with the applicable requirements will be achieved if the exemption is granted. The compliance plan must include all of the following:

(A) The method(s) by which compliance will be achieved;

(B) Milestone achievements;

(C) Milestone dates; and

(D) A proposed mitigation plan that demonstrates how the applicant will reduce greenhouse gas emissions while the exemption is in place. The mitigation plan must include all calculations used to determine emissions estimates.

(c) The application must be submitted in writing to either of the following addresses:

Ecology Air Quality Program

HFC Program

P.O. Box 47600

Olympia, WA 98504-7600; or

By email to: HFC@ecology.wa.gov

(4) Approval and disapproval process.

(a) Ecology will determine whether the exemption application is complete and will notify the applicant of its completeness determination within 30 days of receipt of the application. Only complete applications will be considered.

(b) Within 60 days of determining that the application is complete, ecology will determine if and under what conditions the exemption will be permitted. The applicant and ecology may mutually agree to a longer time period for ecology's review and evaluation.

(c) During the review period, ecology may request, and the applicant must provide, more information, if necessary, to reach a decision.

(d) Ecology will notify the applicant of the decision in writing, and if approved, will specify the terms and conditions of the exemption in a letter to the applicant. Such terms and conditions may include a requirement that best management practices be followed or that mitigation measures identified in the applicant's proposed compliance plan be implemented.

(e) Ecology will grant an exemption only to the applicant who applied for the exemption. The exemption is not transferable.

(f) Ecology will not approve an exemption retroactively prior to receipt of the application.

(g) An applicant adversely affected by a denial of an exemption or by the terms and conditions of an approved exemption, may appeal ecology's decision to the pollution control hearings board pursuant to chapter 43.21B RCW.

(5) Failure to comply with the terms of an approved exemption.

(a) The applicant must comply with the terms and conditions of an approved exemption to maintain its approved status.

(b) Ecology may revoke or modify an exemption approval if it determines the applicant no longer meets the criteria specified in the exemption approval letter.

(c) An applicant adversely affected by an ecology decision to revoke or modify an approved exemption may appeal ecology's decision to the pollution control hearings board pursuant to chapter 43.21B RCW.

#### NEW SECTION

**WAC 173-443-245 Enforcement.** (1) Any violation of this chapter is a violation of chapter 70A.15 RCW and subject to enforcement as provided in that chapter.

(2) In enforcing the requirements of this chapter, ecology will adhere to the provisions of chapter 43.05 RCW regarding site inspections, technical assistance visits, notices of correction, and the issuance of civil penalties, to the extent that these provisions are not in conflict with federal requirements described in RCW 43.05.901.

(3) Ecology may elect to refrain from or cease administering or enforcing a requirement of this chapter if EPA adopts requirements that:

(a) Are substantially duplicative of the requirements of this chapter and that negate the additional emission reduction benefits of state implementation of any requirement of this chapter; or

(b) Preempt state authority under this chapter.

NEW SECTION

**WAC 173-443-255 Confidentiality.** (1) Information submitted to ecology under this chapter is a public record subject to the Washington Public Records Act (chapter 42.56 RCW).

(2) A person submitting information to ecology under this chapter who believes that the information is confidential business or proprietary information, or is otherwise exempt from public disclosure under the Washington Public Records Act (chapter 42.56 RCW), may request ecology keep said information confidential pursuant to RCW 70A.15.2510.

(3) All requests for confidentiality must meet the requirements of RCW 70A.15.2510 and be approved by the director.

NEW SECTION

**WAC 173-443-265 Severability.** If any provision of this chapter or its application is held invalid, the remainder of the chapter or application of the provision is not affected.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-443-070	Product labeling and disclosure requirements.
WAC 173-443-080	Manufacturer notification.
WAC 173-443-090	Initial notification.
WAC 173-443-100	Status update notification.
WAC 173-443-110	Severability.

**OTS-4619.2**NEW SECTION

**WAC 173-455-160 Refrigerant management program fees.** (1) **Entities subject to fees.** Each owner or operator of a refrigeration system or an air conditioning system with a full charge greater than or equal to 200 pounds of a high GWP refrigerant, as defined in WAC 173-443-030, in a single refrigerant circuit is subject to fees under the refrigerant management program.

(2) **Types of fees.** Ecology will charge fees to cover the direct and indirect costs of administering and enforcing the refrigerant management program.

(a) Initial implementation fee. Ecology will charge a one-time fee of \$150 for each refrigeration or air conditioning system with a full refrigerant charge greater than or equal to 1,500 pounds.

(b) Annual implementation fee. Ecology will charge an annual implementation fee each year based on the refrigeration or air conditioning system's refrigerant charge size. For a facility with multiple refrigeration and/or air conditioning systems, the owner or operator must pay an annual implementation fee for each system pursuant to (b)(i) and (ii) of this subsection.

(i) The annual implementation fee is \$370 for a refrigeration or air conditioning system with a refrigerant charge greater than or equal to 1,500 pounds.

(ii) The annual implementation fee is \$170 for a refrigeration or air conditioning system with a refrigerant charge greater than or equal to 200 pounds, but less than 1,500 pounds.

(3) All fees collected under this section will be deposited into the refrigerant emission management account in accordance with RCW 70A.60.050.

(4) **Fee modifications.** Ecology may adjust the amount of the annual implementation fees set forth in subsection (2)(b) of this section based on the sufficiency of funds generated by the program over the previous year, as needed to cover program costs for the following year. Before changing a fee, ecology will:

(a) Prepare a draft workload analysis and budget that reflects the anticipated cost of administering and enforcing the refrigerant management program over the coming year compared to the total fees collected under this section during the previous year;

(b) Post the draft workload analysis, budget, and proposed fee change on ecology's website by August 1st of the year before the calendar year in which the change will take effect;

(c) Provide a 30-day public comment period on the draft workload analysis, budget, and proposed fee change; and

(d) Post the final workload analysis, budget, and new annual implementation fee by December 1st of the year before the new fee takes effect.

(5) **Payment of fees.** Fees identified in this section must be paid within 30 calendar days of receipt of ecology's billing statement. All fees must be made payable to the Washington state department of ecology. Ecology may assess a late fee surcharge for any fee payment received after 60 calendar days past the due date.

WSR 23-24-043  
PERMANENT RULES  
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed November 30, 2023, 11:07 a.m., effective December 31, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department of children, youth, and families is updating administrative rules in chapter 110-30 WAC and other related rules that govern its authority and processes for investigating referrals of alleged child abuse or neglect. These changes are being taken pursuant to chapter 441, Laws of 2023 (ESSB 5515) which amended RCW 26.44.210.

Citation of Rules Affected by this Order: Amending WAC 110-30-0020 and 110-30-0050.

Statutory Authority for Adoption: Chapter 26.44 RCW; RCW 43.216.906, 74.13.031, 74.04.050; and chapter 441, Laws of 2023 (ESSB 5515).

Adopted under notice filed as WSR 23-21-100 on October 18, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2023.

Brenda Villarreal  
Senior Rules Coordinator

**OTS-5033.1**

AMENDATORY SECTION (Amending WSR 20-04-019, filed 1/27/20, effective 2/27/20)

**WAC 110-30-0020 What definitions apply to these rules?** The following definitions apply to this chapter.

**"Abuse or neglect"** means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child as defined in RCW 26.44.020 and this chapter.

**"Administrative hearing"** means a hearing held before an administrative law judge and conducted according to chapter 34.05 RCW and chapter 110-03 WAC.

**"Administrative law judge (ALJ)"** is an impartial decision-maker who presides at an administrative hearing. The office of administrative hearings, which is a state agency but not part of DCYF, employs the ALJs.

**"Alleged perpetrator"** means the person identified in a CPS referral as being responsible for the alleged child abuse or neglect.

**"Alternative response system"** means a contracted provider in a local community that responds to accepted CPS referrals that are rated low or moderately low risk at the time of intake.

**"Appellant"** means a person who requests an administrative hearing to appeal a CPS finding.

**"Behavioral health services"** has the same meaning as in RCW 71.24.025.

**"Child protection team (CPT)"** means a multidisciplinary group of persons with at least four persons from professions that provide services to abused or neglected children and/or parents of such children. The CPT provides confidential case staffing and consultation to child welfare cases.

**"Child protective services (CPS)"** means the section of the department of children, youth, and families for responding to allegations of child abuse or neglect.

**"Child welfare programs (CWP)"** means the division in DCYF that provides child protective, child welfare, and support services to children and their families.

**"Department"** or **"DCYF"** means the Washington state department of children, youth, and families.

**"Finding"** means the final decision made by a CPS caseworker after an investigation regarding alleged child abuse or neglect.

**"Founded"** means the determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did occur.

**"Host home"** has the same meaning as in RCW 74.15.020.

**"Inconclusive"** means the determination following an investigation by CPS, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur. Beginning October 1, 2008, the department no longer makes inconclusive findings, but retains such findings made prior to that date as provided in these rules.

**"Licensing division (LD)"** means the division in DCYF responsible for licensing group care and foster care facilities, and responding to allegations of abuse or neglect in such facilities.

**"Mandated reporter"** means a person required to report alleged child abuse or neglect as defined in RCW 26.44.030.

**"Preponderance of evidence"** means the evidence presented in a hearing indicates more likely than not child abuse or neglect did occur.

**"Residential private schools"** has the same meaning as in RCW 26.44.210.

**"Screened-out report"** means a report of alleged child abuse or neglect that the department had determined does not rise to the level of credible report of abuse or neglect and is not referred for investigation.

**"Substance use disorder"** has the same meaning as in RCW 71.24.025.

**"Unfounded"** means the determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did not occur or there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.



AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-30-0050 Who may receive child protective services?**

Children and families may receive child protective services when there is an allegation that a child has been abused or neglected:

- (1) By a parent, legal custodian, or guardian of the child;
- ~~((~~3~~))~~
- (2) While attending the Washington center for deaf and hard of hearing youth;
- (3) While attending the state school for the blind;
- (4) In a state-operated facility;
- (5) In a DCYF or DSHS licensed(~~(, or state-operated)~~) facility including, but not limited to:
  - (a) Substance use disorder treatment facilities licensed under chapter 71.24 RCW that treat patients on a residential basis; and
  - (b) Entities that provide behavioral health services on a residential basis; (~~or~~
- ~~(3))~~ (6) By persons or agencies subject to licensing under chapter 74.15 RCW, including, but not limited to:
  - (a) Host homes; and
  - (b) Individuals employed by or volunteers of such facilities; and
- (7) In residential private schools.

**WSR 23-24-044**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed November 30, 2023, 12:16 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The Washington state legislature passed ESSB 5111, chapter 267, Laws of 2023, during the 2023 legislative session, which amends RCW 49.46.210 and 49.46.180 to require payment for accrued and unused sick leave for certain construction workers following separation. The updates to chapter 296-128 WAC are needed to clarify and enforce the new requirements. Additional updates are needed to address existing statutory requirements in RCW 49.46.180, as well as general cleanups of the paid sick leave rule.

Citation of Rules Affected by this Order: New WAC 296-128-755 and 296-128-765; and amending WAC 296-128-010, 296-128-600, 296-128-630, 296-128-670, 296-128-680, 296-128-690, 296-128-700, 296-128-730, 296-128-740, 296-128-760, 296-128-810, and 296-128-830.

Statutory Authority for Adoption: Chapter 49.46 RCW.

Adopted under notice filed as WSR 23-20-099 on October 3, 2023.

Changes Other than Editing from Proposed to Adopted Version: **WAC 296-128-760 Construction workers covered by a collective bargaining agreement under RCW 49.46.180.**

**Proposed language:** (1) RCW 49.46.180 allows a construction worker covered by a collective bargaining agreement to receive payment for paid sick leave before usage under the terms of a collective bargaining agreement if:

(a) The leave itself becomes available for protected use by at least the 90th calendar day of employment as established in RCW 49.46.210 (1)(d);

(b) The union signatory to the collective bargaining agreement is an approved referral union program authorized under RCW 50.20.010 and WAC 192-210-110;

(c) The collective bargaining agreement provides equivalent sick leave provisions that meet the requirements of RCW 49.46.200 through 49.46.830, and all applicable rules; and

(d) The requirements of RCW 49.46.200 through 49.46.830 are expressly waived in the collective bargaining agreement in clear and unambiguous terms or in an addendum to an existing agreement including an agreement that is open for negotiation provided the sick leave portions were previously ratified by the membership.

(2) An employer may not make a deduction from paid sick leave payment to a construction worker covered by a collective bargaining agreement before usage or upon separation, unless such deduction meets the requirements set forth in RCW 49.48.010 and WAC 296-126-025.

(3) If a construction worker covered by a collective bargaining agreement is rehired within 12 months after separation from employment by the same employer, whether at the same or a different business location, and was paid their paid sick leave before usage under RCW 49.46.180, and still had protected accrued, unused sick leave available for use, the accrued, unused sick leave must be reinstated for use upon rehire but does not have to be paid when used.

(4) When a construction worker covered by a collective bargaining agreement separates from employment, is rehired within 12 months of separation, whether at the same or a different business location of the employer, and has reached the 90th calendar day of employment pri-

or to separation, the previously accrued, unused sick leave balance must be made available for use upon rehire. If the construction worker covered by a collective bargaining agreement did not reach the 90th calendar day of employment prior to separation, the previous period of employment must be counted for purposes of determining the date upon which the employee is entitled to use sick leave.

(5) Upon rehire, an employer must provide notification to the construction worker covered by a collective bargaining agreement of the amount of accrued, unused paid sick leave available for use by the employee, including sick leave paid before usage.

**Adopted language:** (1) Payment before usage. RCW 49.46.180 allows a construction worker covered by a collective bargaining agreement to receive payment for paid sick leave before usage under the terms of a collective bargaining agreement if:

(a) The leave itself becomes available for protected use by at least the 90th calendar day of employment as established in RCW 49.46.210 (1) (d);

(b) The union signatory to the collective bargaining agreement is an approved referral union program authorized under RCW 50.20.010 and WAC 192-210-110;

(c) The collective bargaining agreement provides equivalent sick leave provisions that meet the requirements of RCW 49.46.200 through 49.46.830, and all applicable rules; and

(d) The requirements of RCW 49.46.200 through 49.46.830 are expressly waived in the collective bargaining agreement in clear and unambiguous terms or in an addendum to an existing agreement including an agreement that is open for negotiation provided the sick leave portions were previously ratified by the membership.

(2) Deductions for paid sick leave payments. An employer may not make a deduction from paid sick leave payment to a construction worker covered by a collective bargaining agreement before usage, unless such deduction meets the requirements set forth in RCW 49.48.010 and WAC 296-126-025.

(3) Reinstatement of sick leave hours upon rehire. If a construction worker covered by a collective bargaining agreement is rehired within 12 months after separation from employment by the same employer, whether at the same or a different business location, was paid their paid sick leave before usage under RCW 49.46.180, and still had protected accrued, unused sick leave available for use, the accrued, unused sick leave must be reinstated upon rehire. Any portion of sick leave already paid during a previous period of employment does not have to be paid again when used during reemployment.

(4) Use of sick leave hours upon rehire. How to treat prior days of employment for access to paid sick leave.

(a) If a construction worker covered by a collective bargaining agreement separates from employment, is rehired within 12 months of separation, whether at the same or a different business location of the employer, was paid their paid sick leave before usage under RCW 49.46.180 and has reached the 90th calendar day of employment prior to separation, the construction worker covered by a collective bargaining agreement is eligible to use accrued sick leave immediately upon rehire.

(b) If a construction worker covered by a collective bargaining agreement separates from employment, is rehired within 12 months of separation, whether at the same or a different business location of the employer, was paid their paid sick leave before usage under RCW 49.46.180, and did not reach the 90th calendar day of employment prior

to separation, the previous period of employment must be counted for purposes of determining the date upon which they are entitled to use sick leave.

(5) Exceptions to subsections (3) and (4) of this section. If a construction worker covered by a collective bargaining agreement separates from employment, is not rehired within 12 months of separation by the same employer, whether at the same or a different business location, the employer is not required to meet standards in subsection (3) or (4) of this section.

(6) Notification upon rehire. Upon rehire, an employer must provide notification to the construction worker covered by a collective bargaining agreement of the amount of accrued, unused paid sick leave available for use by the employee, including sick leave paid before usage.

**WAC 296-128-765 Construction workers under RCW 49.46.210 (1) (1) (effective January 1, 2024).**

**Proposed language:** (1) Following separation, employers must pay the balance of accrued and unused paid sick leave to construction workers classified under NAICS code 23, except for construction workers who perform work limited to work only under NAICS code 236100, who have not reached the 90th calendar day of employment.

(2) When a construction worker is rehired within 12 months of separation, whether at the same or a different business location of the employer, the previous period of employment must be counted for purposes of determining the date upon which the employee is entitled to use paid sick leave.

**Adopted language:** (1) Following separation, employers must pay the balance of accrued and unused paid sick leave to construction workers classified under NAICS code 23 who have not reached the 90th calendar day of employment, except for construction workers who perform work limited to work only under NAICS code 236100.

(2) When a construction worker is rehired within 12 months of separation, whether at the same or a different business location of the employer, any sick leave previously paid out following separation does not need to be reinstated.

(3) When a construction worker is rehired within 12 months of separation, whether at the same or a different business location of the employer, the previous period of employment must be counted for purposes of determining the date upon which the employee is entitled to use paid sick leave.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 12, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2023.

Joel Sacks  
Director

OTS-4970.6

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-010 Records required.** For all employees who are subject to RCW 49.46.020, employers shall be required to keep and preserve payroll or other records containing the following information and data with respect to each and every employee to whom said section of said act applies:

(1) Name in full, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records. This shall be the same name as that used for Social Security record purposes;

(2) Home address;

(3) Occupation in which employed;

(4) Date of birth if under (~~eighteen~~) 18;

(5) Time of day and day of week on which the employee's workweek begins. If the employee is part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment will suffice. If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees;

(6) Hours worked each workday and total hours worked each workweek (for purposes of this section, a "workday" shall be any consecutive (~~twenty-four~~) 24 hours);

(7) Total daily or weekly straight-time earnings or wages; that is, the total earnings or wages due for hours worked during the workday or workweek, including all earnings or wages due during any overtime worked, but exclusive of overtime excess compensation;

(8) Total overtime excess compensation for the workweek; that is, the excess compensation for overtime worked which amount is over and above all straight-time earnings or wages also earned during overtime worked;

(9) Total additions to or deductions from wages paid each pay period. Every employer making additions to or deductions from wages shall also maintain a record of the dates, amounts, and nature of the items which make up the total additions and deductions;

(10) Total wages paid each pay period;

(11) Date of payment and the pay period covered by payment;

(12) Paid sick leave accruals each month, and any unused paid sick leave available for use by an employee;

(13) Paid sick leave reductions each month including, but not limited to: Paid sick leave used by an employee, paid sick leave donated to a co-worker through a shared leave program, or paid sick leave not carried over to the following year ("year" as defined in WAC 296-128-620(6));

(14) Paid sick leave payments to construction workers covered by a collective bargaining agreement before usage as provided under RCW 49.46.180, and any remaining leave which remains after payment;

(15) The date of commencement of (~~his or her~~) their employment, as defined in WAC 296-128-600(2);

(~~(15) Employer may use symbols where names or figures are called for so long as such symbols are uniform and defined~~)

(16) Paid sick leave paid out to a construction worker following separation from employment;

(17) Any date(s) of separation from employment, as defined in WAC 296-128-600(14); and

(18) Employers may use symbols where names or figures are called for so long as such symbols are uniform and defined.

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-600 Definitions.** (1) "Absences exceeding three days" means absences exceeding three consecutive days an employee is required to work. For example, assume an employee is required to work on Mondays, Wednesdays, and Fridays, and then the employee uses paid sick leave for any portion of those three work days in a row. If the employee uses paid sick leave again on the following Monday, the employee would have absences exceeding three days.

(2) "Commencement of his or her employment" as provided in RCW 49.46.210 (1)(d), means no later than the beginning of the first day on which the employee is authorized or required by the employer to be on duty on the employer's premises or at a prescribed workplace. "Commencement of their employment" has the same meaning.

(3) "Construction worker" is any nonexempt employee covered under the 2022 North American Industry Classification System (NAICS) industry code 23, except for those employees who perform only work described in NAICS 2361, residential building construction. This includes employees who work for an employer who performs construction-related work as described in NAICS 23, but are not directly engaged in the construction work itself, such as nonexempt administrative staff.

(4) "Construction worker covered by a collective bargaining agreement" as provided in RCW 49.46.180, means a nonexempt employee covered by a collective bargaining agreement, provided that the union signatory to the collective bargaining agreement is an approved referral union program authorized under RCW 50.20.010 and in compliance with WAC 192-210-110, the collective bargaining agreement establishes equivalent sick leave provisions, as provided in RCW 49.46.180(2), and the requirements of RCW 49.46.200 through 49.46.830 are expressly waived in the collective bargaining agreement in clear and unambiguous terms or in an addendum to an existing agreement including an agreement that is open for negotiation provided the sick leave portions were previously ratified by the membership. This does not include employees who are not directly engaged in construction work itself, such as nonexempt administrative staff.

(5) "Department" means the department of labor and industries.

~~((4))~~ (6) "Director" means the director of the department of labor and industries, or the director's authorized representative.

~~((5))~~ (7) "Employee" has the same meaning as RCW 49.46.010(3). An employee includes a construction worker or construction worker covered by a collective bargaining agreement unless a more specific provision applies.

~~((6))~~ (8) "Employer" has the same meaning as RCW 49.46.010(4).

~~((7))~~ (9) "Frontloading" means providing an employee with paid sick leave before it has accrued at the rate required by RCW 49.46.210(1)(a).

~~((8))~~ (10) "Health-related reason," as provided in RCW 49.46.210 (1)(b)(iii), means a serious public health concern that could result in bodily injury or exposure to an infectious agent, biological toxin, or hazardous material. Health-related reason does not include closures for inclement weather.

~~((9))~~ (11) "Hours worked" shall be interpreted in the same manner as WAC 296-126-002(8).

~~((10))~~ (12) "Normal hourly compensation" means the hourly rate that an employee would have earned for the time during which the employee used paid sick leave. For employees who use paid sick leave for hours that would have been overtime hours if worked, employers are not required to apply overtime standards to an employee's normal hourly compensation. Normal hourly compensation does not include tips, gratuities, service charges, holiday pay, or other premium rates, unless the employer or a collective bargaining agreement allow for such considerations. However, where an employee's normal hourly compensation is a differential rate, meaning a different rate paid for the same work performed under differing conditions (e.g., a night shift), the differential rate is not a premium rate.

~~((11))~~ (13) "Regular and normal wage" has the same meaning as normal hourly compensation.

~~((12))~~ (14) "Separation" and "separates from employment" mean the end of the last day an employee is authorized or required by the employer to be on duty on the employer's premises or at a prescribed workplace.

~~((13))~~ (15) "Verification" means evidence that establishes or confirms that an employee's use of paid sick leave is for an authorized purpose under RCW 49.46.210 (1)(b) and (c).

~~((14))~~ (16) "Workweek" means a fixed and regularly recurring period of ~~((one hundred sixty-eight))~~ 168 hours, or seven consecutive ~~((twenty-four))~~ 24 hour periods. It may begin on any day of the week and any hour of the day, and need not coincide with a calendar week.

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-630 Paid sick leave usage.** (1) An employee is entitled to use paid sick leave for the authorized purposes outlined in RCW 49.46.210 (1)(b) and (c). This right means an employee has the choice about whether or not to use accrued, unused paid sick leave when a qualified purpose occurs and an employer may not require an employee to use accrued, unused paid sick leave if the employee does not choose to request to use paid sick leave.

(2) An employee is entitled to use accrued, unused paid sick leave beginning on the ~~((ninetieth))~~ 90th calendar day after the commencement of ~~((his or her))~~ their employment. Employers may allow employees to use accrued, unused paid sick leave prior to the ~~((ninetieth))~~ 90th calendar day after the commencement of ~~((his or her))~~ their employment.

(3) Beginning on the ~~((ninetieth))~~ 90th calendar day after the commencement of ~~((his or her))~~ their employment, employers must make accrued paid sick leave available to employees for use in a manner consistent with the employer's established payment interval or leave records management system, not to exceed one month after the date of accrual.

(4) Unless a greater increment is approved by a variance as provided by WAC 296-128-640, employers must allow employees to use paid sick leave in increments consistent with the employer's payroll system and practices, not to exceed one hour. For example, if an employer's normal practice is to track increments of work for the purposes of compensation in ~~((fifteen))~~ 15-minute increments, then an employer must allow employees to use paid sick leave in ~~((fifteen))~~ 15-minute increments.

(5) Paid sick leave pay may be paid to construction workers covered by a collective bargaining agreement before the usage of the leave under the terms of a collective bargaining agreement if an employer meets the requirements of RCW 49.46.180 and any applicable rules.

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-670 Rate of pay for use of paid sick leave.** (1) For each hour of paid sick leave used, an employee must be paid the greater of the minimum hourly wage rate established by RCW 49.46.020 or their normal hourly compensation.

(2) For each hour of paid sick leave paid out to a construction worker following separation, the construction worker must be paid the greater of the minimum hourly wage rate established by RCW 49.46.020 or their normal hourly compensation.

(3) An employer must calculate an employee's normal hourly compensation using a reasonable calculation based on the hourly rate that an employee would have earned for the time during which the employee used paid sick leave. Examples of reasonable calculations to determine normal hourly compensation include, but are not limited to:

(a) For an employee paid partially or wholly on a commission basis, dividing the total earnings by the total hours worked in the full pay periods in the prior ~~((ninety))~~ 90 days of employment;

(b) For an employee paid partially or wholly on a piece rate basis, dividing the total earnings by the total hours worked in the most recent workweek in which the employee performed identical or substantially similar work to the work they would have performed had they not used paid sick leave;

(c) For a nonexempt employee paid a salary, dividing the annual salary by ~~((fifty-two))~~ 52 to determine the weekly salary, and then dividing the weekly salary by the employee's normal scheduled hours of work;

(d) For an employee whose hourly rate of pay fluctuates:

(i) Where the employer can identify the hourly rates of pay for which the employee was scheduled to work, a calculation equal to the scheduled hourly rates of pay the employee would have earned during the period in which paid sick leave is used;

(ii) Where the employer cannot identify the hourly rates of pay for which the employee would have earned if the employee worked, a calculation based on the employee's average hourly rate of pay in the current or preceding ~~((thirty))~~ 30 days, whichever yields the higher hourly rate.

~~((+3))~~ (4) For employees who are scheduled to work a shift of indeterminate length (e.g., a shift that is defined by business needs rather than a specific number of hours), the rate of pay may be calcu-



lated by multiplying the employee's normal hourly compensation by the total hours worked by a replacement employee in the same shift, or similarly situated employees who worked that same or similar shift. If there is no replacement employee to compare to, the employer may use the average number of hours the employee using the paid sick leave typically works during a similar shift.

(5) Construction workers covered by a collective bargaining agreement who are paid before the usage of the leave under the terms of a collective bargaining agreement should be paid their normal hourly compensation. Unless addressed in a collective bargaining agreement, the payment should reflect a reasonable calculation of the normal hourly compensation based on the date of payment.

~~((4))~~ (6) An employer must apply a consistent methodology when calculating the normal hourly compensation of similarly situated employees.

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-680 Payment of paid sick leave.** (1) Unless verification for absences exceeding three days is required by an employer, the employer must pay paid sick leave to an employee no later than the payday for the pay period in which the paid sick leave was used by the employee. If verification is required by the employer, paid sick leave must be paid to the employee no later than the payday for the pay period during which verification is provided to the employer by the employee.

(2) The employer must pay the balance of accrued and unused paid sick leave to a construction worker under RCW 49.46.210 (1)(1) (effective January 1, 2024), at the end of the established pay period, pursuant to RCW 49.48.010(2), following the construction worker's separation.

(3) Payment of paid sick leave at the normal hourly compensation to construction workers covered by a collective bargaining agreement may occur before usage, as authorized by RCW 49.46.180 and applicable rules.

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-690 Separation and reinstatement of accrued paid sick leave upon rehire.** Except as provided for construction workers by RCW 49.46.210 (1)(1) (effective January 1, 2024) and applicable rules, and provided for construction workers covered by collective bargaining agreements by RCW 49.46.180 and applicable rules:

(1) When an employee separates from employment and is rehired within ~~((twelve))~~ 12 months of separation by the same employer, whether at the same or a different business location of the employer, the employer must comply with the provisions of RCW 49.46.210 (1)(k). If an employee separates from employment, the employer is not required to provide financial or other reimbursement to the employee for accrued, unused paid sick leave at the time of separation.

(2) An employer may choose to reimburse an employee for any portion of their accrued, unused paid sick leave at the time the employee separates from employment.

(a) If an employer chooses to reimburse an employee for any portion of their accrued, unused paid sick leave at the time the employee separates from employment, any such terms for reimbursement must be mutually agreed upon in writing by both the employer and the employee, unless the right to such reimbursement is set forth elsewhere in state law or through a collective bargaining agreement.

(b) If an employee is rehired by the same employer, whether at the same or a different business location of the employer, within ~~((twelve))~~ 12 months after the date the employee separates from employment, the employer must reinstate the employee's previously accrued, unused paid sick leave. An employer need not reinstate any hours of paid sick leave previously provided to the employee through financial or other reimbursement at the time of separation, as long as the value of the paid sick leave was established and paid at a rate that was at least equal to the employee's normal hourly compensation.

(3) When an employee separates from employment and the employee is rehired within ~~((twelve))~~ 12 months of separation by the same employer, whether at the same or a different business location of the employer, an employee who reached the ~~((ninetieth))~~ 90th calendar day of employment prior to separation shall have their previously accrued, unused paid sick leave balance available for use upon rehire. If the employee did not reach the ~~((ninetieth))~~ 90th calendar day of employment prior to separation, the previous period of employment must be counted for purposes of determining the date upon which the employee is entitled to use paid sick leave.

(4) Upon rehire, an employer must provide notification to the employee of the amount of accrued, unused paid sick leave available for use by the employee.

(5) If the period of time an employee separates from employment extends into the following year ("year" as defined at WAC 296-128-620(6)), the employer is not required to reinstate more than ~~((forty))~~ 40 hours of the employee's accrued, unused paid sick leave.

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-700 Paid time off (PTO) programs.** (1) A PTO program is a program that combines more than one type of leave, including all paid sick leave, into one bank of leave (i.e., a program that combines vacation leave, or other discretionary forms of leave, and paid sick leave into one bank). Paid time off (PTO) provided to employees by an employer's PTO program ~~((e.g., a program that combines vacation leave, sick leave, or other forms of leave into one pool), created by a written policy or a collective bargaining agreement,))~~ satisfies the requirement to provide paid sick leave if:

(a) The PTO program meets or exceeds the provisions of RCW 49.46.200 and 49.46.210, and all applicable rules ~~((r))~~ including, but not limited to:

~~((a))~~ (i) Accrual of PTO leave at a rate of not less than one hour for every ~~((forty))~~ 40 hours worked as an employee;

~~((b))~~ (ii) Payment for PTO leave at the ~~(employee's)~~ greater of the minimum hourly wage rate established by RCW 49.46.020 or the normal hourly compensation;

~~((e))~~ (iii) Carryover of at least ~~(forty)~~ 40 hours of accrued, unused PTO leave to the following year ("year" as defined at WAC 296-128-620(6));

~~((d))~~ (iv) Access to ~~(use)~~ all PTO leave in the bank on the same terms for all the purposes authorized under RCW 49.46.210 (1)(b) and (c) except as provided in subsection (2) of this section; ~~(and~~

~~(e) Employer notification and)~~ (v) Recordkeeping requirements set forth in WAC 296-128-010 and ~~((296-128-760)) 296-128-755; and~~

(b) The employer notifies the employee of their intention to utilize the PTO program in order to meet paid sick leave requirements under RCW 49.46.210.

(2) An employer may include more generous PTO (leave in excess of the accrual requirements) that is not subject to RCW 49.46.200 and 49.46.210, and all applicable rules, in the same leave bank as state paid sick leave compliant with RCW 49.46.200 and 49.46.210, and all applicable rules if:

(a) The compliant sick leave meets all the requirements of subsection (1) of this section independently of any more generous leave provided under an employer policy or CBA;

(b) The compliant paid sick leave is tracked separately;

(c) There is no requirement for the employee to use their protected leave for more generous purposes (purposes not authorized under RCW 49.46.210 (1)(b) and (c), such as vacation leave) before accessing the more generous PTO leave for more generous purposes; and

(d) If there is no policy that encourages the employee to use their protected leave for more generous purposes (purposes not authorized under RCW 49.46.210 (1)(b) and (c), such as vacation leave) before accessing the more generous PTO leave for more generous purposes.

(3) If an employee chooses to use their PTO leave for purposes other than those authorized under RCW 49.46.210 (1)(b) and (c), and the need for use of paid sick leave later arises when no additional PTO leave is available, the employer is not required to provide any additional PTO leave to the employee as long as the employer's PTO program meets or exceeds the provisions of RCW 49.46.200 and 49.46.210, and all applicable rules.

(4) If an employer utilizes a PTO program to meet or exceed the provisions of RCW 49.46.200 and 49.46.210 for construction workers, the balance of the PTO must be paid out to any qualifying construction workers covered under RCW 49.46.210 (1)(1) (effective January 1, 2024), following separation.

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-730 Frontloading.** (1) An employer may, but is not required to, frontload paid sick leave to an employee in advance of accrual. An employer that allows an employee to go into "negative balances" of paid sick leave (i.e., where paid sick leave has not accrued and the employer allows its use) is frontloading paid sick leave to the employee.

(2) If an employer frontloads paid sick leave, the employer must ensure that such frontloaded paid sick leave complies with the provi-

sions of RCW 49.46.180, 49.46.200, and 49.46.210, and all applicable rules.

(3) If an employer frontloads paid sick leave, the employer must do so by using a reasonable calculation, consistent with the accrual requirement set forth under RCW 49.46.210 (1)(a), to determine the amount of paid sick leave the employee would be projected to accrue during the period of time for which paid sick leave is being frontloaded.

(a) If the employer calculates and frontloads, and an employee subsequently uses, an amount of paid sick leave which exceeds the paid sick leave the employee would have otherwise accrued absent frontloading, the employer shall not seek reimbursement from the employee for such paid sick leave used during the course of ongoing employment.

(b) If an employer frontloads paid sick leave to an employee, but such frontloaded paid sick leave is less than the amount the employee was entitled to accrue under RCW 49.46.210 (1)(a), the employer must make such additional amounts of paid sick leave available for use by the employee as soon as practicable, but no later than (~~thirty~~) 30 days after identifying the discrepancy.

(4) The employer must have a written policy or a collective bargaining agreement which addresses the requirements for use of frontloaded paid sick leave. An employer must notify employees of such policy or agreement prior to frontloading an employee paid sick leave, and must make this information readily available to all employees.

(5) An employer may not make a deduction from an employee's final wages for frontloaded paid sick leave used prior to the accrual rate required by RCW 49.46.210 (1)(a), unless there is a specific agreement in place with the employee allowing for such a deduction. Such deductions must also meet the requirements set forth in RCW 49.48.010 and WAC 296-126-025.

(6) If an employer frontloads paid sick leave to a construction worker under RCW 49.46.210 (1)(1) (effective January 1, 2024) and the construction worker separates from employment, the employer must pay the balance of frontloaded leave in the construction worker's bank unless the employer can determine the amount of unused paid sick leave the employee accrued during the period of time for which paid sick leave was frontloaded using a reasonable calculation consistent with the accrual requirement set forth under RCW 49.46.210 (1)(a).

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-740 Third-party administrators.** (1) Employers may contract with a third-party administrator in order to administer the paid sick leave requirements under RCW 49.46.180, 49.46.200, and 49.46.210, and all applicable rules.

(2) Employers are not relieved of their obligations under RCW 49.46.200 and 49.46.210, and all applicable rules, if they elect to contract with a third-party administrator to administer paid sick leave requirements. With the consent of employers, third-party administrators may pool an employee's accrued, unused paid sick leave from multiple employers as long as the accrual rate is at least equal to one hour of paid sick leave for every (~~forty~~) 40 hours worked as an employee. For example, if a group of employers have employees who perform work for various employers at different times, the employers may

choose to contract with a third-party administrator to track the hours worked and rate of accrual for paid sick leave for each employee, and pool such accrued, unused paid sick leave for use by the employee when the employee is working for any employers in the same third-party administrator network.

(3) A collective bargaining agreement may outline the provisions for an employer to use a third-party administrator as long as such provisions meet all paid sick leave requirements under RCW 49.46.180, 49.46.200, and 49.46.210, and all applicable rules.

(4) An employer may utilize a third-party administrator in order to meet separation payout requirements under RCW 49.46.210 (1)(1) (effective January 1, 2024) and applicable rules.

(5) Under the terms of a collective bargaining agreement, an employer may meet its obligation to meet separation payout requirements under RCW 49.46.210 (1)(1) (effective January 1, 2024) and applicable rules by providing the third-party administrator a payment of any accrued unused leave, including regular payments meant to satisfy paid sick leave payment requirements. The third-party administrator may maintain a leave balance the employee may access after the separation of employment subject to the terms of the collective bargaining agreement.

#### NEW SECTION

**WAC 296-128-755 Employer notification and reporting to employees.** (1) Employers must notify each employee of their entitlement to paid sick leave, the rate at which the employee will accrue paid sick leave, the authorized purposes under which paid sick leave may be used, the employer's intention to use a PTO program to meet requirements under RCW 49.46.210 (if applicable), and that retaliation by the employer for the employee's lawful use of paid sick leave and other rights provided under chapter 49.46 RCW, and all applicable rules, is prohibited.

(a) Employers must provide such notification in written or electronic form, and must make this information readily available to all employees.

(b) For employees hired on or after January 1, 2018, employers must notify each employee of such rights no later than the commencement of their employment. For existing employees as of January 1, 2018, the employer must notify each employee no later than March 1, 2018.

(c) The department shall, in consultation with employee and employer representatives, develop sample notification policies that meet the department's standard for compliance with these rules. The department shall make such sample notification policies available on the department's website.

(2) Not less than monthly, employers must provide each employee with written or electronic notification detailing the amount of paid sick leave accrued, the amount of paid sick leave paid before usage to construction workers covered by a collective bargaining agreement as permissible under RCW 49.46.180, the paid sick leave reductions since the last notification, and any unused paid sick leave available for use by the employee. Employers may satisfy the notification requirements by providing this information in regular payroll statements.

(a) Employers are not required to provide monthly notification to an employee if the employee has no hours worked since the last notification.

(b) If an employer chooses to frontload paid sick leave to an employee in advance of accrual:

(i) The employer must make written or electronic notification to an employee no later than the end of the period for which the frontloaded paid sick leave was intended to cover, establishing that the amount of paid sick leave frontloaded to the employee was at least equal to the accrual rate under RCW 49.46.210 (1)(a); and

(ii) The employer is not relieved of their obligation to provide notification, not less than monthly, of the paid sick leave available for use by the employee.

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-760 (~~(Employer notification and reporting to employees.)~~) Construction workers covered by a collective bargaining agreement under RCW 49.46.180.** (~~((1) Employers must notify each employee of their entitlement to paid sick leave, the rate at which the employee will accrue paid sick leave, the authorized purposes under which paid sick leave may be used, and that retaliation by the employer for the employee's lawful use of paid sick leave and other rights provided under chapter 49.46 RCW, and all applicable rules, is prohibited.~~

~~(a) Employers must provide such notification in written or electronic form, and must make this information readily available to all employees.~~

~~(b) For employees hired on or after January 1, 2018, employers must notify each employee of such rights no later than the commencement of his or her employment. For existing employees as of January 1, 2018, the employer must notify each employee no later than March 1, 2018.~~

~~(c) The department shall, in consultation with employee and employer representatives, develop sample notification policies which meet the department's standard for compliance with these rules. The department shall make such sample notification policies available on the department's website.~~

~~(2) Not less than monthly, employers must provide each employee with written or electronic notification detailing the amount of paid sick leave accrued and the paid sick leave reductions since the last notification, and any unused paid sick leave available for use by the employee. Employers may satisfy the notification requirements by providing this information in regular payroll statements.~~

~~(a) Employers are not required to provide monthly notification to an employee if the employee has no hours worked since the last notification.~~

~~(b) If an employer chooses to frontload paid sick leave to an employee in advance of accrual:~~

~~(i) The employer must make written or electronic notification to an employee no later than the end of the period for which the frontloaded paid sick leave was intended to cover, establishing that the amount of paid sick leave frontloaded to the employee was at least equal to the accrual rate under RCW 49.46.210 (1)(a); and~~

~~(ii) The employer is not relieved of their obligation to provide notification, not less than monthly, of the paid sick leave available for use by the employee.)~~

(1) **Payment before usage.** RCW 49.46.180 allows a construction worker covered by a collective bargaining agreement to receive payment for paid sick leave before usage under the terms of a collective bargaining agreement if:

(a) The leave itself becomes available for protected use by at least the 90th calendar day of employment as established in RCW 49.46.210 (1) (d);

(b) The union signatory to the collective bargaining agreement is an approved referral union program authorized under RCW 50.20.010 and WAC 192-210-110;

(c) The collective bargaining agreement provides equivalent sick leave provisions that meet the requirements of RCW 49.46.200 through 49.46.830, and all applicable rules; and

(d) The requirements of RCW 49.46.200 through 49.46.830 are expressly waived in the collective bargaining agreement in clear and unambiguous terms or in an addendum to an existing agreement including an agreement that is open for negotiation provided the sick leave portions were previously ratified by the membership.

(2) **Deductions for paid sick leave payments.** An employer may not make a deduction from paid sick leave payment to a construction worker covered by a collective bargaining agreement before usage, unless such deduction meets the requirements set forth in RCW 49.48.010 and WAC 296-126-025.

(3) **Reinstatement of sick leave hours upon rehire.** If a construction worker covered by a collective bargaining agreement is rehired within 12 months after separation from employment by the same employer, whether at the same or a different business location, was paid their paid sick leave before usage under RCW 49.46.180, and still had protected accrued, unused sick leave available for use, the accrued, unused sick leave must be reinstated upon rehire. Any portion of sick leave already paid during a previous period of employment does not have to be paid again when used during reemployment.

(4) **Use of sick leave hours upon rehire.** How to treat prior days of employment for access to paid sick leave.

(a) If a construction worker covered by a collective bargaining agreement separates from employment, is rehired within 12 months of separation, whether at the same or a different business location of the employer, was paid their paid sick leave before usage under RCW 49.46.180 and has reached the 90th calendar day of employment prior to separation, the construction worker covered by a collective bargaining agreement is eligible to use accrued sick leave immediately upon rehire.

(b) If a construction worker covered by a collective bargaining agreement separates from employment, is rehired within 12 months of separation, whether at the same or a different business location of the employer, was paid their paid sick leave before usage under RCW 49.46.180, and did not reach the 90th calendar day of employment prior to separation, the previous period of employment must be counted for purposes of determining the date upon which they are entitled to use sick leave.

(5) **Exceptions to subsections (3) and (4) of this section.** If a construction worker covered by a collective bargaining agreement separates from employment, is not rehired within 12 months of separation by the same employer, whether at the same or a different business lo-

cation, the employer is not required to meet standards in subsection (3) or (4) of this section.

(6) **Notification upon rehire.** Upon rehire, an employer must provide notification to the construction worker covered by a collective bargaining agreement of the amount of accrued, unused paid sick leave available for use by the employee, including sick leave paid before usage.

#### NEW SECTION

**WAC 296-128-765 Construction workers under RCW 49.46.210 (1) (1) (effective January 1, 2024).** (1) Following separation, employers must pay the balance of accrued and unused paid sick leave to construction workers classified under NAICS code 23 who have not reached the 90th calendar day of employment, except for construction workers who perform work limited to work only under NAICS code 236100.

(2) When a construction worker is rehired within 12 months of separation, whether at the same or a different business location of the employer, any sick leave previously paid out following separation does not need to be reinstated.

(3) When a construction worker is rehired within 12 months of separation, whether at the same or a different business location of the employer, the previous period of employment must be counted for purposes of determining the date upon which the employee is entitled to use paid sick leave.

AMENDATORY SECTION (Amending WSR 18-01-111, filed 12/19/17, effective 1/1/18)

**WAC 296-128-810 Enforcement—Paid sick leave.** (1) If an employee files a complaint with the department alleging that the employer failed to provide the employee with paid sick leave as provided in RCW 49.46.180, 49.46.200, and 49.46.210, the department will investigate the complaint as an alleged violation of a wage payment requirement, as defined by RCW 49.48.082(12).

(2) When the department's investigation results in a finding that the employer failed to provide the employee with paid sick leave accrual, use, or carryover during an ongoing employment relationship, the employee may elect to:

(a) Receive full access to the balance of accrued paid sick leave hours unlawfully withheld by the employer, based on a calculation of at least one hour of paid sick leave for every ~~((forty))~~ 40 hours worked as an employee during the period of noncompliance; or

(b) Receive payment from the employer at their normal hourly compensation for each hour of paid sick leave that the employee would have used or been reasonably expected to use, whichever is greater, during the period of noncompliance, not to exceed an amount the employee would have otherwise accrued. The employee will receive full access to the balance of accrued paid sick leave hours unlawfully withheld by the employer, less the number of paid sick leave hours paid out to the employee pursuant to this subsection.



(3) When the department's investigation results in a finding that the employer failed to provide the employee with paid sick leave accrual, use, or carryover, and the employee is no longer employed by the same employer, the employee may elect to receive payment at their normal hourly compensation, receive reinstatement of the balance of paid sick leave hours, or receive a combination of payment and reinstatement from the employer for all hours of paid sick leave that would have accrued during the period of noncompliance. Such hours must be based on a calculation of at least one hour of paid sick leave for every (~~forty~~) 40 hours worked as an employee.

(4) The department's notice of assessment, pursuant to RCW 49.48.083, may order the employer to provide the employee any combination of reinstatement and payment of accrued, unused paid sick leave hours assessed pursuant to subsection (2) or (3) of this section. When the department's investigation results in a finding that the employer failed to pay the balance of paid sick leave to a construction worker following separation, as required under RCW 49.46.210 (1)(1) (effective January 1, 2024), the department's notice of assessment may order the employer to pay the remainder of any accrued and unused paid sick leave that was not paid out at the time of separation.

(5) For purposes of this section, an employer found to be in non-compliance cannot cap the employee's carryover of paid sick leave at (~~forty~~) 40 hours to the following year for each year of noncompliance ("year" as defined in WAC 296-128-620(6)).

AMENDATORY SECTION (Amending WSR 18-01-111, filed 12/19/17, effective 1/1/18)

**WAC 296-128-830 Enforcement—Complaints alleging a violation of other rights under chapter 49.46 RCW—Duty of department to investigate—Citations—Civil penalties.** (1) If an employee files a complaint with the department alleging a violation of the employee's rights under chapter 49.46 RCW, and all applicable rules, that are not otherwise enforced by the department pursuant to WAC 296-128-780 through 296-128-820, or the Wage Payment Act, RCW 49.48.082 through 49.48.087, the department will investigate the complaint under this section. Alleged violations include, but are not limited to, failure of an employer to comply with: The recordkeeping requirements set forth in WAC 296-128-010; the requirements to maintain written policies or collective bargaining agreements, as outlined in WAC 296-128-650(3), 296-128-660(2), 296-128-710(1), and 296-128-730(4); and notification and reporting requirements set forth in WAC 296-128-755 and 296-128-760(6).

(a) The department may not investigate any such alleged violation of rights that occurred more than three years before the date that the employee filed the complaint.

(b) If an employee files a timely complaint with the department, the department will investigate the complaint and issue either a citation assessing a civil penalty or a closure letter within (~~sixty~~) 60 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the period, and specifying the duration of the extension.

(c) The department will send notice of a citation assessing a civil penalty or the closure letter to both the employer and the employee by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(2) If the department's investigation finds that the employee's allegation cannot be substantiated, the department will issue a closure letter to the employee and the employer detailing such finding.

(3) If the department determines that the violation of rights under chapter 49.46 RCW, and all applicable rules, that are not enforced by the department pursuant to WAC 296-128-780 through 296-128-820, or the Wage Payment Act, RCW 49.48.082 through 49.48.087, was a willful violation, and the employer fails to take corrective action, the department may order the employer to pay the department a civil penalty as specified in (a) of this subsection.

(a) A citation assessing a civil penalty for a willful violation of such rights will be (~~one thousand dollars~~) \$1,000 for each willful violation. For a repeat willful violator, the citation assessing a civil penalty will not be less than (~~two thousand dollars~~) \$2,000 for each repeat willful violation, but no greater than (~~twenty thousand dollars~~) \$20,000 for each repeat willful violation.

(b) The department may not issue a citation assessing a civil penalty if the employer reasonably relied on:

(i) A written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or

(ii) An interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department will maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an employer is immune from civil penalties under (b) of this subsection.

(c) The department may, at any time, waive or reduce a civil penalty assessed under this section if the director determines that the employer has taken corrective action to resolve the violation.

(d) The department will deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(4) For purposes of this section, the following definitions apply:

(a) "Repeat willful violator" means any employer that has been the subject of a final and binding citation for a willful violation of one or more rights under chapter 49.46 RCW, and all applicable rules, within three years of the date of issuance of the most recent citation for a willful violation of one or more such rights.

(b) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

## WSR 23-24-056

## PERMANENT RULES

## EMPLOYMENT SECURITY DEPARTMENT

[Filed December 1, 2023, 1:27 p.m., effective January 1, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule making will permanently adopt the department's overpayment waiver emergency rules in order to permanently provide expanded access to overpayment waivers. This rule making will also allow the department to consider waivers for claimants with overpayments resulting from a discharge for misconduct that occurred from February 2, 2020, through September 4, 2021.

Citation of Rules Affected by this Order: New WAC 192-220-018; and amending WAC 192-220-017 and 192-220-080.

Statutory Authority for Adoption: RCW 50.20.190, 50.24.020, 50.12.010, and 50.12.040.

Other Authority: Unemployment Insurance Program Letter No. 20-21, Change 1 (February 7, 2020).

Adopted under notice filed as WSR 23-21-062 on October 12, 2023.

A final cost-benefit analysis is available by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax 844-652-7096, TTY relay 711, email rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/rulemaking/overpayment-waivers-permanent-rulemaking>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 1, 2023.

Joy E. Adams, Director  
Employment System Policy and Integrity Division

**OTS-4233.4**

AMENDATORY SECTION (Amending WSR 08-21-056, filed 10/9/08, effective 11/9/08)

**WAC 192-220-017 Am I required to repay the overpayment?** (1) You must repay the full amount of the overpayment, even if you are not at fault, unless you are granted a waiver. (See also WAC 192-230-110.) A waiver means you do not have to repay the overpayment.

(2) Except as provided in subsection (3) of this section, you are potentially eligible for a waiver of an overpayment when it would be

against equity and good conscience for the department to require you to repay the full amount.

(3) You are not eligible for a waiver when:

(a) You are at fault for the overpayment;

(b) The overpayment is the result of a discharge for misconduct or gross misconduct (see RCW 50.20.066(5)), unless the discharge occurred during the time period beginning on February 2, 2020, and ending on September 4, 2021;

~~(c) ((The overpayment is the result of a conditional payment of benefits;~~

~~(d))~~ The overpayment decision was issued by a state other than Washington; or

~~((e))~~ (d) The overpayment is for disaster unemployment assistance benefits paid under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

#### NEW SECTION

**WAC 192-220-018 Blanket overpayment waivers for federally funded pandemic era benefits.** The department will waive overpayments for federally funded benefits when:

(1) The individual answered "no" to being able to work and available for work and:

(a) The state paid Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation, or Pandemic Emergency Unemployment Compensation without adjudicating the eligibility issue;

(b) Upon requesting additional information from the individual, the individual either did not respond or the individual confirmed that they were not able to work nor available for work for the week in question; and

(c) The paid benefits resulted in an overpayment for that week.

(2) The individual answered "no" to being unemployed, partially unemployed, or unable or unavailable to work because of the approved COVID-19-related reasons provided in 15 U.S.C. § 9021 (a) (3) (A) (ii) (I) and:

(a) The state paid Pandemic Unemployment Assistance anyway;

(b) Following a request from the department for a new self-certification, the individual either did not respond or the individual confirmed that none of the approved COVID-19-related reasons were applicable; and

(c) The state's payment of these benefits resulted in an overpayment for that week.

(3) The individual complied with instructions from the department to submit proof of earnings to be used in calculating the individual's Pandemic Unemployment Assistance weekly benefit amount and:

(a) Through no fault of the individual, the department's instructions were either inadequate or the department incorrectly processed this calculation using self-employment gross income instead of net income or documents from an inapplicable tax year, resulting in an incorrect higher Pandemic Unemployment Assistance weekly benefit amount; and

(b) The department established an overpayment for the difference in the individual's Pandemic Unemployment Assistance weekly benefit amount.

(4) The individual complied with instructions from the department to submit proof of earnings to be used in calculating the individual's Mixed Earner Unemployment Compensation weekly benefit amount and:

(a) Through no fault of the individual, the department's instructions were either inadequate or the department incorrectly processed this calculation using self-employment gross income instead of net income or documents from an inapplicable tax year, resulting in an incorrect higher Mixed Earner Unemployment Compensation weekly benefit amount; and

(b) The department established an overpayment for the difference in the individual's Mixed Earner Unemployment Compensation weekly benefit amount.

AMENDATORY SECTION (Amending WSR 17-04-090, filed 1/31/17, effective 3/3/17)

**WAC 192-220-080 How do I obtain a waiver?** (1) When a decision is issued that creates an overpayment, the department will send you an application for waiver if you are potentially eligible.

(2) The waiver application asks for information concerning your financial condition and other circumstances which will help the department determine if the overpayment should be waived.

(3) The financial information requested includes documentation for the previous month, current month, and following month of your:

(a) Income and, to the extent available, the income of other household members who contribute financially to the household;

(b) Expenses; and

(c) Readily available liquid assets including, but not limited to, checking and savings account balances, stocks, bonds, and cash on hand.

(4) The completed application and supporting documents must be returned to the department by the response deadline indicated in the notice, which will be no less than five working days plus reasonable mailing time, if any. If you do not provide the information by the deadline, the department will make a decision about your eligibility for waiver based on available information.

(5) A waiver cannot exceed the total amount of benefits available on your claim. The department will not waive the overpayment in such a way as to allow you to receive either a greater weekly benefit amount or a greater total benefit amount than you were originally eligible to receive. Any benefits waived are considered paid to you.

Example: You misplace a benefit check and request a replacement from the department. You subsequently cash both the original check and the replacement. Waiver will not be approved under these circumstances because you have been paid twice for the same week.

(6) If a waiver is approved based on information that is later found to be false or misleading, the amount waived will be restored to your overpayment balance.

(7) For benefits paid for the week beginning February 2, 2020, through the week ending September 4, 2021, the department will allow claimants to apply a second time for a waiver of their overpayment for benefits, even if the individual previously had an overpayment waiver request denied or was previously deemed ineligible for an overpayment waiver.

**WSR 23-24-071**  
**PERMANENT RULES**  
**CENTRALIA COLLEGE**

[Filed December 4, 2023, 2:54 p.m., effective January 4, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The existing parking and traffic regulations were outdated. Changes were necessary to reflect actual college processes and procedures.

Citation of Rules Affected by this Order: Amending chapter 132L-117 WAC, Traffic and parking regulations.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140(13).

Adopted under notice filed as WSR 23-21-073 on October 13, 2023.

Date Adopted: December 4, 2023.

Janet Reaume  
Executive Assistant to the President

**OTS-4881.2**

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-010 Purpose ((for adopting parking and traffic regulations))**. Pursuant to the authority granted by RCW 28B.50.140(10), the board of trustees of Centralia College is granted authority to adopt rules and regulations for pedestrian and vehicular traffic upon public lands devoted to, operated by, or maintained by the college. The board delegates this authority to the president. ((The objectives of these regulations are:

- ~~(1) To protect and control pedestrian and vehicular traffic.~~
- ~~(2) To assure access at all times for emergency traffic.~~
- ~~(3) To minimize traffic disturbances during class hours.~~
- ~~(4) To facilitate the work of the college by assuring access to its vehicles and by assigning limited parking space for the most efficient use by all.~~
- ~~(5) To regulate the use of parking spaces.~~
- ~~(6) To protect state-owned property.)~~

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-020 Applicable ((parking and traffic)) regulations.**

(1) All regulations in this chapter and all motor vehicle and other traffic laws of the state of Washington shall apply on the campus.

(2) The traffic code of the city of Centralia shall apply upon all lands located within the city of Centralia.

(3) The traffic code of the municipality within which any Centralia College controlled property resides shall apply.

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-030 Definitions.** As used in this chapter, the following words and phrases shall mean:

- (1) "Board": The board of trustees of Centralia College.
- (2) "Campus": All lands and buildings devoted to, operated by, or maintained by Centralia College.
- (3) "College": Centralia College.
- (4) "Employee": An individual appointed to the faculty, staff, or administration of the college.
- (5) "Guests/visitors": Person or persons who come upon the campus as guests and person or persons who lawfully visit the campus.
- ~~(6) ("Continuing permits": Permits issued to full-time employees for an indefinite period of time.~~
- ~~(7) "Annual permits": Permits that are valid from the date of issue until the first day of the following fall quarter.~~
- ~~(8) "Temporary permits": Permits that are valid for a specific period designated on the permit.~~
- ~~(9)) "Permits": Permits issued to employees, guests, or students under current parking procedures.~~
- (7) "Vehicle": Automobile, truck, motor-driven cycle, scooter, one wheel, bicycle, recreational, or ((and)) any vehicle otherwise powered.
- ~~((10) "Full-time student": Any person who is enrolled on campus for ten credit hours or more at the college.~~
- ~~(11) "Part-time student": Any person who is enrolled on campus for nine credit hours or fewer at the college.~~
- ~~(12) "Full-time employee": An employee of the college employed twenty hours or more per week on a permanent regular basis.~~
- ~~(13) "Part-time employee": An employee of the college employed less than twenty hours per week.))~~ (8) "Student": Anyone currently enrolled in credited or noncredited courses.

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-040 Authorization for issuance of permits.** ~~((1))~~ The chief administrative officer, or designee, is authorized to issue parking permits to students, employees, and guests ~~((upon the following:~~

- ~~(1a) When the vehicle is properly registered with the college.~~
- ~~(1b) When a permanent or special parking permit is necessary to enhance the business or operation of the college.~~
- ~~(2) Additional permits are available at the current fee schedule to individuals who may be registered to drive any one of several vehicles. Only one vehicle registered to an individual under one permit fee shall be permitted to park on campus at any one time))~~ when required by college procedures.

AMENDATORY SECTION (Amending WSR 90-17-060, filed 8/14/90, effective 9/14/90)

**WAC 132L-117-050 ((Vehicle parking permits.)) Violation of parking and traffic regulations.** ((~~(1) All part-time and full-time employees and students of the college shall obtain and display a currently valid parking permit on all vehicles parked or left standing unattended upon the college campus for both day and night classes, in accordance with WAC 132L-117-040.~~

~~(2) All persons parking on the campus shall secure and display a currently valid parking permit within five days from date of registration or from the first day of employment.))~~ (1) Operators of illegally operated or parked vehicles shall be warned or cited through an appropriate means that they are in violation of these regulations. All fines are payable through the cashier's office.

(2) In instances where violations are repeated, and in the judgment of the safety and security supervisor, with appropriate documented evidence, parking privileges may be revoked and said vehicles may be impounded. Individuals may be subject to additional discipline through the applicable process.

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-060 ((Visitor permits.)) Issuance of traffic tickets or summons.** ((~~All guests/visitors (including salespersons, maintenance or service personnel) will park in appropriate parking areas after obtaining a temporary permit.))~~ (1) The chief administrative officer or designee may issue a warning or citation for a violation of these regulations. The warning or citation should set forth the date, the approximate time, license information and nature of violation.

(2) Such warning or citation may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator.

AMENDATORY SECTION (Amending WSR 90-17-060, filed 8/14/90, effective 9/14/90)

**WAC 132L-117-070 ((Responsibility of person to whom permit is issued.)) Fines and penalties.** ((~~The person to whom a parking permit is issued shall be responsible for all violations of said rules and regulations involving the vehicle; however, such responsibility shall not relieve said driver of the responsibility for violations of the regulations established by this chapter. In the event that a vehicle in violation is not registered with the college, the current registered owner will be responsible for the violations of the campus regulations.))~~ The chief administrative officer, or designee, is authorized to impose the following fines and penalties for violation of the regulations contained in this chapter:

(1) The president or designee shall set a schedule of fines. The schedule will be published by the college. In addition, the schedule is available upon request.



(2) Fines will be assessed in accordance with the fees and fines schedules as established by the currently published procedures for the following violations:

- (a) No valid permit displayed;
- (b) Visitor parking violations;
- (c) Occupying more than one parking space;
- (d) Occupying space/area not designated for parking;
- (e) Handicapped parking violation;
- (f) Parking in area not authorized by permit;
- (g) Parking in reserved staff space without permit;
- (h) Blocking or obstructing traffic (may be towed at owner's expense);
- (i) Parking adjacent to fire hydrant (may be towed at owner's expense);
- (j) Parking in fire lane (may be towed at owner's expense);
- (k) Parking in zone or area marked no parking;
- (l) Other violations of college parking traffic regulations.

(3) At the discretion of the chief administrative officer, or designee, an accumulation of citations by a staff, administrator, or faculty member may be turned over to a private collection agency for the collection of past due fines. Other appropriate collection procedures may be initiated as deemed necessary.

(4) Vehicles parking in a manner so as to obstruct traffic, including access to and from parking spaces and areas, may be subject to a fine and may be impounded and taken to such place for storage as the chief administrative officer, or designee, selects. The expenses of such impounding and storage shall be the responsibility of the registered owner or driver of the vehicle.

(5) Vehicles impounded by means of an immobilizing device shall be charged a service fee according to the current fee schedule.

(6) The college shall not be liable for loss, damage, or costs of any kind resulting from impounding and storage of vehicles.

(7) Vehicles involved in violations of these regulations may be impounded as provided for in these regulations.

(8) Persons may appeal the issuance of a citation according to WAC 132L-117-180.

(9) In the event a person fails or refuses to pay an uncontested fine, additional penalties may apply as defined in college procedures.

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-080 ((Display of permits-)) ~~Appeal proceedings—Appeal of fines and penalties.~~ ((The parking permit issued by the college shall be visibly affixed on the outside of the rear window or the rear bumper on the driver's side of the vehicle. Motorcycle permits must be affixed in a conspicuous place.**

(1) Appeals must be presented in writing, giving full particulars, listing witnesses, evidence, etc.

(2) Appeals must be submitted to the chief administrative officer within five business days from date of citation.

(3) If an appeal is not resolved to the satisfaction of the alleged violator, he/she shall have five additional business days from

receipt of decision by the chief administrative officer to appeal to the parking advisory committee.

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-090** ~~((Transfer of permits.))~~ **Parking appeals committee.** ~~((Parking permits are not transferable. If a vehicle is sold or traded, the parking permit must be removed, the new vehicle must be registered, and a new permit will be reissued.))~~ The parking appeals committee shall be convened as necessary by the president and be structured and responsible for the following purposes:

(1) To receive and hear appeals related to parking and traffic violations. All decisions made by the parking appeals committee relative to parking/traffic appeals shall be final.

(2) Membership shall consist of at least: Two student representatives, one faculty representative, one classified representative, and one administrator. The chair will be appointed by the president.

AMENDATORY SECTION (Amending WSR 90-17-060, filed 8/14/90, effective 9/14/90)

**WAC 132L-117-100** ~~((Permit revocation.))~~ **Liability of college.** ~~((Permits are licenses and the property of the college, and may be revoked for any of the following reasons:~~

~~(1) When the purpose for which the permit was issued changes or no longer exists.~~

~~(2) When a permit is used on an unregistered vehicle or by an unauthorized person.~~

~~(3) Falsification on a vehicle registration application.~~

~~(4) Continued violations of parking and traffic regulations.~~

~~(5) Counterfeiting or altering of permits.))~~ The college assumes no liability under any circumstances for theft or damage occurring to vehicles, bicycles or their contents. No bailment of any sort is created by the purchase of a parking permit.

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-110** ~~((Right to refuse permit.))~~ **Designation of parking.** ~~((The chief administrative officer, or designee, reserves the right to refuse the issuance of a parking permit to anyone who has had a previous permit revoked, or whose driving or parking record indicates a disregard for the rights or safety of others.))~~ The parking spaces available on campus may be allocated and designated by the chief administrative officer in such a manner as will best achieve the objectives of these rules and regulations.

AMENDATORY SECTION (Amending WSR 90-17-060, filed 8/14/90, effective 9/14/90)

**WAC 132L-117-120** ~~((Right to appeal permit revocation/refusal.))~~

**Parking within designated spaces.** ~~((When a parking permit has been revoked pursuant to WAC 132L-117-100 or has been refused in accordance with WAC 132L-117-110 or when a fine or penalty has been levied against a violator of the rules and regulations set forth in this chapter, such action by the dean of administration, or designee, may be appealed in accordance with WAC 132L-117-180.))~~ (1) No vehicle shall be parked on the campus except in those areas set aside and designated for parking.

(2) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall.

(3) Special limitations may be enforced for large vehicles such as recreational vehicles, trailers, and other nonstandard vehicles.

(4) Overnight parking prohibited without special permission from campus security.

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-130** ~~((Delegation of authority.))~~ **Regulatory signs, markings, barricades, etc.** ~~((The authority and powers conferred upon the chief administrative officer by these regulations shall be subject to delegation to that individual's subordinates.))~~ The chief administrative officer, or designee, is authorized to make and erect signs, barricades, and other structures and to paint marks and other directions upon the streets, entry/exits, and roadways for the regulation of traffic and parking upon the various public lands devoted to, operated by, or maintained by the college. Drivers shall observe and obey all the signs, barricades, structures, markings, and directions given them by the campus authorities in the control and regulation of traffic and parking.

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-140** ~~((Enforcement.))~~ **Report of accidents.** ~~((1) Parking and traffic regulations will be enforced at all times.~~

~~(2) The chief administrative officer, or designee shall be responsible for the enforcement of the regulations contained in this chapter.))~~ Any vehicle accident on campus must be reported immediately to campus security or the chief administrative officer or designee.

AMENDATORY SECTION (Amending WSR 90-17-060, filed 8/14/90, effective 9/14/90)

**WAC 132L-117-150** ~~((Violation of parking and traffic regulations.))~~ **Disabled and inoperative vehicles—Impounding.** ~~((1) Opera-~~

tors of illegally operated or parked vehicles shall be warned or cited through an appropriate means that they are in violation of these regulations. All fines are payable at the cashier's office.

~~(2) In instances where violations are repeated, and in the judgment of the safety and security supervisor, with appropriate documented evidence, said vehicles may be impounded.)~~ (1) Disabled or inoperative vehicles shall not be parked on the campus for a period exceeding 72 hours, without authorization from the chief administrative officer, or designee.

(2) Vehicles parked over 72 hours without authorization may be impounded and stored at the expense of either or both the owner and operator thereof.

(3) Notice of intent to impound will be posted on the vehicle 24 hours prior to impound.

AMENDATORY SECTION (Amending WSR 04-19-062, filed 9/15/04, effective 10/16/04)

**WAC 132L-117-160 ((Issuance of traffic tickets or summons.)) Authority to establish parking fee.** ~~((1) The chief administrative officer or designee may issue a warning or citation for a violation of these regulations. The warning or citation should set forth the date, the approximate time, permit number, license information and nature of violation.~~

~~(2) Such warning or citation may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator.)~~ The president or designee shall set and review as necessary parking permit fees in accordance with WAC 132L-117-300 and a schedule of fines and penalties in accordance with WAC 132L-117-170.

AMENDATORY SECTION (Amending WSR 23-12-113, filed 6/7/23, effective 7/8/23)

**WAC 132L-117-170 ((Fines and penalties.)) Parking permit fees.** ~~((The chief administrative officer, or designee, is authorized to impose the following fines and penalties for violation of the regulations contained in this chapter:~~

~~(1) The president shall set a schedule of fines. The schedule shall be published by the college in the College Policy Manual, on the parking permit request form, and on the traffic parking citation form. In addition, the schedule is available upon request.~~

~~(2) Fines will be assessed in accordance with the fees and fines schedules as established by the president for the following violations:~~

- ~~(a) No valid permit displayed~~
- ~~(b) Visitor parking violations~~
- ~~(c) Occupying more than one parking space~~
- ~~(d) Occupying space/area not designated for parking~~
- ~~(e) Handicapped parking violation~~
- ~~(f) Parking in area not authorized by permit~~
- ~~(g) Parking in reserved staff space without authorization~~

- ~~(h) Blocking or obstructing traffic (may be towed at owner's expense)~~
- ~~(i) Parking adjacent to fire hydrant (may be towed at owner's expense)~~
- ~~(j) Parking in fire lane (may be towed at owner's expense)~~
- ~~(k) Parking in zone or area marked no parking~~
- ~~(1) Other violations of college parking traffic regulations.~~
- ~~(3) At the discretion of the chief administrative officer, or designee, an accumulation of citations by a staff, administrator, or faculty member may be turned over to a private collection agency for the collection of past due fines. Other appropriate collection procedures may be initiated as deemed necessary.~~
- ~~(4) Vehicles parking in a manner so as to obstruct traffic, including access to and from parking spaces and areas, may be subject to a fine and may be impounded and taken to such place for storage as the chief administrative officer, or designee, selects. The expenses of such impounding and storage shall be the responsibility of the registered owner or driver of the vehicle.~~
- ~~(5) Vehicles impounded by means of an immobilizing device shall be charged a service fee according to the current fee schedule.~~
- ~~(6) The college shall not be liable for loss or damage of any kind resulting from impounding and storage of vehicles.~~
- ~~(7) Vehicles involved in violations of these regulations may be impounded as provided for in these regulations.~~
- ~~(8) Persons may appeal the issuance of a citation according to WAC 132L-117-180.~~
- ~~(9) In the event a person fails or refuses to pay an uncontested fine which has been outstanding in excess of five days, the chief administrative officer, or designee, may initiate the following actions:~~
- ~~(a) Students will not be able to register for subsequent quarters until all fines are paid.~~
- ~~(b) Students may be turned over to a private collection agency for the collection of past due fines.)) Fees shall be levied in accordance with the current published fee schedule.~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132L-117-180	Appeal proceedings—Appeal of fines and penalties.
WAC 132L-117-190	Parking appeals committee.
WAC 132L-117-200	Liability of college.
WAC 132L-117-210	Designation of parking.
WAC 132L-117-220	Parking within designated spaces.
WAC 132L-117-230	Regulatory signs, markings, barricades, etc.
WAC 132L-117-240	Speed limit.
WAC 132L-117-250	Pedestrians right of way.
WAC 132L-117-260	Two-wheeled motorcycles or bicycles.
WAC 132L-117-270	Report of accidents.

WAC 132L-117-280 Disabled and inoperative vehicles—  
Impounding.

WAC 132L-117-290 Authority to establish parking fee.

WAC 132L-117-300 Parking permit fees.

**WSR 23-24-085**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed December 5, 2023, 12:02 p.m., effective July 1, 2024]

Effective Date of Rule: July 1, 2024.

Purpose: The department of labor and industries (L&I) is updating the threshold amount in WAC 296-127-050 from the outdated \$2,500 threshold used by awarding agencies of the alternate filing procedures (combined intent and affidavit form) on public works projects, to be consistent with recent changes to RCW 39.12.040 Statement of intent to pay prevailing wages. In order to avoid future rule making if the statutory amount is changed in the future, L&I is removing the dollar amounts in rule and cross referencing directly to the statute (RCW 39.12.040).

Citation of Rules Affected by this Order: Amending WAC 296-127-050.

Statutory Authority for Adoption: Chapter 39.12 RCW.

Adopted under notice filed as WSR 23-20-100 on October 3, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 5, 2023.

Joel Sacks  
Director

**OTS-4963.1**

AMENDATORY SECTION (Amending WSR 92-01-104, filed 12/18/91, effective 1/31/92)

**WAC 296-127-050 Filing of statements of intent to pay prevailing wages and affidavits of wages paid (~~for contracts under two thousand five hundred dollars~~) per RCW 39.12.040(2).** A contract awarding agency may, as part of a public works contract, enter into an agreement with a contractor to approve statements of intent to pay prevailing wages and affidavits of wages paid on behalf of the department (~~for contracts wherein the total amount does not exceed two thousand five hundred dollars~~) as provided in RCW 39.12.040(2), pursuant to the following terms:

(1) The agreement must be incorporated into the bid specifications and contract document;

(2) Statement of intent forms and affidavit of wages paid forms, provided by the department, must be filed with the contract awarding agency by the contractor prior to the disbursement of public funds;

(3) Contract awarding agencies must retain copies of all statements of intent to pay prevailing wages received pursuant to this section for a period of not less than three years;

(4) Contract awarding agencies must send to the department copies of all affidavits of wages paid received pursuant to this section within (~~thirty~~) 30 days of receipt from the contractor;

(5) The contract awarding agency shall accept full responsibility and liability for payment of any valid wage claims directly to the claimant;

(6) The contract awarding agency may proceed against any contractor found to have violated the provisions of the statute, and may debar such contractor from consideration for future contracts for up to one year and will provide the department with the names and contractor registration or other employer identification numbers of any such debarred contractors within (~~thirty~~) 30 days of the debarment; and

(7) Contract awarding agencies and contractors shall not enter into contracts or agreements to perform public work that subdivide or otherwise disaggregate any public works project of more than (~~two thousand five hundred dollars~~) the dollar amount outlined in RCW 39.12.040 (2) (e), to enable such public works project to be awarded pursuant to this section.



**WSR 23-24-091**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed December 5, 2023, 4:27 p.m., effective December 7, 2023]

Effective Date of Rule: December 7, 2023 (two business days after filing).

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Effective date of two business days after filing as allowed under RCW 34.05.380 (3) (a) because ESHB 1699 and SSB 5538 are both already in effect.

Purpose: To make changes and clarifications as necessary and appropriate to implement bills including ESHB 1699 (permitting individuals retired from the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system additional opportunities to work for a school district), SHB 1056 (repealing some postretirement employment restrictions), and SSB 5538 (postretirement employment in nursing positions for a state agency).

Citation of Rules Affected by this Order: New WAC 415-02-170 and 415-02-173; and amending WAC 415-02-030, 415-02-325, 415-106-700, 415-108-710, 415-110-710, and 415-112-525.

Statutory Authority for Adoption: RCW 41.50.050, chapter 110, Laws of 2022, and chapters 99 and 410, Laws of 2023.

Adopted under notice filed as WSR 23-20-112 on October 3, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 6, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 2, Amended 6, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 5, 2023.

Tracy Guerin  
Director

**OTS-4835.2**

AMENDATORY SECTION (Amending WSR 22-13-053, filed 6/8/22, effective 7/9/22)

**WAC 415-02-030 Definitions.** This section contains definitions of words and phrases commonly used in the department of retirement systems' rules. It also serves as a directory for finding definitions within the RCW and WAC.

(1) **Accumulated contributions** means the sum of all contributions paid into a member's defined benefit account, including interest.

(2) **Appeal** means the proceeding through which a party obtains review of a department action in an adjudicative proceeding conducted under chapter 34.05 RCW (the Administrative Procedure Act) and chapter 415-08 WAC (the department's appeal rules).

(3) **Average final compensation** is defined in RCW 41.32.010 (TRS); RCW 41.35.010 (SERS); RCW 41.40.010 (PERS); and RCW 41.37.010 (PSERS).

(4) **Average final salary** for WSPRS is defined in RCW 43.43.120.

(5) **Cafeteria plan** means a "qualified" employee benefit program under IRC section 125, such as certain health and welfare plans.

(6) **Calendar month.**

(a) Refers to one of the 12 named months of the year, extending from the first day of the named month through the last day. For example: January 1st through January 31st is a calendar month. February 1st through February 29th is a calendar month in a leap year. March 13th through April 12th is **not** a calendar month.

(b) Exception: For the purpose of administering the break in employment required by RCW 41.32.570, 41.32.802, 41.32.862, 41.35.060, 41.37.050 and 41.40.037 for retirees returning to work, one calendar month means 30 consecutive calendar days. For example: Kim's retirement date is August 1st. August 31st would be the earliest Kim could return to work and meet the requirement for a one calendar month break in employment.

(7) **Compensation earnable or earnable compensation** definitions can be found in RCW 41.32.010 and 41.32.345 (TRS); RCW 41.35.010 (SERS); RCW 41.37.010 (PSERS); and RCW 41.40.010 (PERS).

(8) **Contribution rate** is:

(a) For employees: The fraction (percent) of compensation a member contributes to a retirement system each month.

(b) For employers: The fraction (percent) of payroll a member's employer contributes to a retirement system each month. Contribution rates vary for the different systems and plans.

(9) **Deferred compensation** refers to the amount of the participant's compensation, which the participant voluntarily defers from earnings before taxes to a deferred compensation program.

(10) **Defined benefit plan** is a pension plan in which a lifetime retirement allowance is available, based on the member's service credit and compensation.

(11) **Defined contribution plan** is a plan in which part of members' or participants' earnings are deferred into investment accounts in which tax is deferred until funds are withdrawn. The benefit is based on the contributions and the amount of return from the investment of the contributions. Members or participants receive the full market rate of return minus expenses. There is no guaranteed rate of return and the value of an account will increase or decrease based upon market fluctuations.

(12) **Department** means the department of retirement systems.

(13) **Director** means the director of the department of retirement systems.

(14) **Employee** means a worker who performs labor or services for a retirement systems employer under the control and direction of the employer as determined under WAC 415-02-110(2). An employee may be eligible to participate as a member of one of the state-administered retirement systems according to eligibility requirements specified under the applicable retirement system.

(15) **Employer** is defined in RCW 41.26.030 (LEOFF), 41.32.010 (TRS), 41.34.020 (Plan 3), 41.35.010 (SERS), 41.37.010 (PSERS) and 41.40.010 (PERS).

(16) **Ex-spouse** refers to a person who is a party to a "dissolution order" as defined in RCW 41.50.500.

(17) **Final average salary for LEOFF** is defined in RCW 41.26.030.

(18) **First employed by an eligible employer in an eligible position** means, for purposes of plan default, first employment with an employer, in an eligible position, with which a member has fully exhausted their plan choice rights.

(19) **HERPs** mean higher education retirement plans described in chapter 28B.10 RCW, which are non-DRS retirement plans offered by institutions of higher education, such as, but not limited to, University of Washington retirement plan (UWRP) and Western Washington University retirement plan (WWURP).

(20) **Independent contractor** means a contract worker who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3).

(21) **IRC** means the Federal Internal Revenue Code of 1986, as subsequently amended.

(22) **Indexed retirement allowance** means a defined benefit retirement allowance from an indexed retirement plan, payable to a member who separates after having completed at least 20 service credit years, that is increased by 0.0025 percent, compounded for each month from the date of separation to the date that the retirement allowance commences.

(23) **Indexed retirement plan** means one of the following retirement plans, which are administered by the department of retirement systems and provide an indexed retirement allowance: Law Enforcement Officers' and Firefighters Retirement System Plan 2 (RCW 41.26.530), Public Employees' Retirement System Plan 3 (RCW 41.40.790), School Employees' Retirement System Plan 3 (RCW 41.35.620), and Teachers' Retirement System Plan 3 (RCW 41.32.840).

(24) **JRF** means the judges' retirement fund created by chapter 2.12 RCW.

(25) **JRS** means the Washington judicial retirement system created by chapter 2.10 RCW.

(26) **LEOFF** means the Washington law enforcement officers' and firefighters' retirement system created by chapter 41.26 RCW.

(27) **Member** means a person who is included in the membership of one of the retirement systems created by chapters 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37, 41.40, or 43.43 RCW.

(28) **Nonadministrative position or nonadministrative capacity** refers to retirees returning to work:

(a) In a position at a school district, charter school, educational service district, state school for the deaf, state school for the blind, or tribal school which:

((a)) (i) Does not require an administrative certification, as defined by the office of the superintendent of public instruction, (currently positions requiring the certification include: Principal, vice principal, program administrator, conditional administrator, superintendent or program administrator certifications); or

((b)) (ii) Does not evaluate staff.

(b) In a position at a state agency or a public institution of higher education as a nonadministrative licensed nurse whose primary responsibility is to provide nursing care as described under WAC 415-106-010(7).

(29) **Normal retirement** means qualifying for retirement based on the standard age and service credit requirements as specified in RCW 2.10.100 (JRS), 2.12.020 (JRF), 41.26.090 (LEOFF Plan 1), 41.26.430(1)

(LEOFF Plan 2), 41.32.470 (TRS Plan 1), 41.32.765(1) (TRS Plan 2), 41.32.875(1) (TRS Plan 3), 41.35.420(1) (SERS Plan 2), 41.35.680(1) (SERS Plan 3), 41.37.210(1) (PSERS), 41.40.180 (PERS Plan 1), 41.40.630(1) (PERS Plan 2), 41.40.820(1) (PERS Plan 3), or 43.43.250 (WSPRS).

(30) **Participant** means an eligible employee who participates in a deferred compensation plan.

(31) **Participation agreement** means an agreement that an eligible employee signs to become a participant in a deferred compensation plan.

(32) **Pension plan** is a plan that provides a lifelong post retirement payment of benefits to employees.

(33) **PERS** means the Washington public employees' retirement system created by chapter 41.40 RCW.

(34) **Petition** means the method by which a party requests a review of an administrative determination prior to an appeal to the director. The department's petitions examiner performs the review under chapter 415-04 WAC.

(35) **Plan 1** means the retirement plans in existence prior to the enactment of chapters 293, 294 and 295, Laws of 1977 ex. sess.

(36) **Plan 2** means the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess., chapter 341, Laws of 1998, and chapter 329, Laws of 2001.

(37) **Plan 3** means the retirement plans established by chapter 239, Laws of 1995, chapter 341, Laws of 1998, and chapter 247, Laws of 2000.

(38) **Plan choice rights** refers to a member's right, within a 90-day period, to make an irrevocable choice to become a member of Plan 2 or Plan 3 or be defaulted into a plan after the full 90-day period has expired.

(a) A member will be reported in Plan 2 until plan choice rights have been exercised.

(b) A member must make a choice within 90 calendar days (computed as described in RCW 1.12.040) from the first day of employment in an eligible position.

(c) A member will be defaulted into a plan if they continue employment in an eligible position past the 90-day plan choice period without making a choice.

(d) A member may exercise plan choice rights only once per system.

(e) Once a member makes a plan choice, that choice cannot be changed, even if the member is still within 90 days of hire.

(39) **Plan year** is the 12-month period that begins on January 1st and ends on December 31st of the same calendar year.

(40) **Portability** is the ability to use membership in more than one Washington state retirement system in order to qualify for retirement benefits. See chapters 41.54 RCW and 415-113 WAC.

(41) **PSERS** means the Washington public safety employees' retirement system created by chapter 41.37 RCW.

(42) **Public record** is defined in RCW 42.56.010.

(43) **Restoration** is the process of restoring a member's service credit for prior periods.

(44) **Retirement system employer - See "employer."**

(45) **Rollover** means a distribution that is paid to or from an eligible retirement plan within the statutory time limit allowed.

(46) **Separation date** is the date a member ends employment in a position eligible for retirement.

(47) **SERS** means the Washington school employees' retirement system created by chapter 41.35 RCW.

(48) **Split account** is the account the department establishes for a member or retiree's ex-spouse.

(49) **Surviving spouse** refers to a person who was married to the member at the time of the member's death and who is receiving or is eligible to receive a survivor benefit.

(50) **Survivor beneficiary** means a person designated by the member to receive a monthly benefit allowance after the member dies.

(51) **Survivor benefit** is a feature of a retirement plan that provides continuing payments to a designee after the death of a member or retiree.

(52) **TRS** means the Washington state teachers' retirement system created by chapter 41.32 RCW.

(53) **The Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA)** is the federal law that requires employers to reemploy and preserve job security, pension and welfare benefits for qualified employees who engage in military service.

(54) **WSPRS** means the Washington state patrol retirement system created by chapter 43.43 RCW.

#### NEW SECTION

**WAC 415-02-170 How is my benefit affected if I return to work and impacted by more than one annual hourly limit? (1) How is my benefit affected if I return to work in positions with two different employers that qualify for more than one annual hourly limit?**

If you return to work in more than one position, and the positions have different annual hourly limits, you will be limited to the lowest annual hourly limit for all positions.

**Examples:** Don is retired from teachers' retirement system (TRS) 2 and returned to work as a teacher. Don's nonadministrative TRS position at a school district has an annual limit of 1,040 hours. While working at the school district, Don also takes a position at a state agency. The state agency position is a public employees' retirement system (PERS) position, and Don is subject to an annual limit of 867 hours. Don's annual hourly limit is lowered to 867 hours while working in both positions. Don then separates from the state agency position, and Don's annual hourly limit will return to 1,040 hours.

Pat is a 2008 ERF retiree, who returned to work as a driver for the department of transportation (DOT) in a PERS position with an annual limit of 867 hours. Pat gets a second job, working as a bus driver for a school district. The nonadministrative position in the school employees' retirement system (SERS) is subject to an annual limit of 1,040 hours. Pat's benefit is governed by the lowest limit, in this case the PERS position at DOT. Pat's annual limit will be 867 hours in a calendar year.

**(2) If I receive pension payments from more than one DRS administered retirement system, and each system has different annual hourly limits, how will my benefit be affected?**

If you are retired from multiple DRS systems, each of your benefits will be affected according to rules of the respective system.

**Example:** Alex retired from two systems, PERS and SERS, and returned to work as a bus driver in a SERS-eligible position at a school

district after the mandatory 30-day break. Alex's two benefits will be impacted differently.

- PERS - To qualify for the 1,040-hour annual hourly limit in PERS, you need a 100-day break in service. Alex only has a 30-day break before returning to work, so Alex's PERS benefit will be limited to 867 hours.

- SERS - Alex's SERS benefit does not require the 100-day break. So, Alex's annual hourly limit for the SERS benefit will be limited to 1,040 hours.

#### NEW SECTION

**WAC 415-02-173 How is my benefit affected if I return to work and am impacted by more than one annual hourly limit? (1) How is my benefit affected if I return to work in positions with two different employers that qualify for more than one annual hourly limit?**

If you return to work in more than one position, and the positions have different annual hourly limits, you will be limited to the highest annual hourly limit for all positions.

**Examples:** Don is retired from teachers' retirement system (TRS) 2 and returned to work as a teacher. Don's nonadministrative TRS position at a school district has an annual limit of 1,040 hours. While working at the school district Don also takes a position at a state agency. The state agency position is a public employees' retirement system (PERS) position and Don is subject to an annual limit of 867 hours. Don's annual hourly limit is lowered to 867 hours while working in both positions. Don then separates from the state agency position and Don's annual hourly limit will return to 1,040 hours.

Pat is a 2008 ERF retiree, who returned to work as a driver for the department of transportation (DOT) in a PERS position with an annual limit of 867 hours. Pat gets a second job, working as a bus driver for a school district. The nonadministrative position in the school employees' retirement system (SERS) is subject to an annual limit of 1,040 hours. Pat's benefit is governed by the lowest limit, in this case the PERS position at DOT. Pat's annual limit will be 867 hours in a calendar year.

**(2) If I receive pension payments from more than one DRS administered retirement system, and each system has different annual hourly limits, how will my benefit be affected?**

If you are retired from multiple DRS systems, each of your benefits will be affected according to rules of the respective system.

**Example:** Alex retired from two systems, PERS and SERS, and returned to work as a bus driver in a SERS-eligible position at a school district after the mandatory 30-day break. Alex's two benefits will be impacted differently.

- PERS - To qualify for the 1,040-hour annual hourly limit in PERS, you need a 100-day break in service. Alex only has a 30-day break before returning to work, so Alex's PERS benefit will be limited to 867 hours.

- SERS - Alex's SERS benefit does not require the 100-day break. So, Alex's annual hourly limit for the SERS benefit will be limited to 1,040 hours.

AMENDATORY SECTION (Amending WSR 20-01-079, filed 12/11/19, effective 1/11/20)

**WAC 415-02-325 2008 Early retirement factors.** (1) **What are the 2008 early retirement factors?** In chapter 491, Laws of 2007, the legislature created optional early retirement factors (ERFs) for members retiring on or after September 1, 2008. Referred to as the 2008 ERFs, these optional factors are available to Plan 2 and Plan 3 members of the following retirement systems: Public employees' retirement system (PERS); school employees' retirement system (SERS); and teachers' retirement system (TRS). The 2008 ERFs (~~provide~~) provided a higher retirement benefit than the three percent ERFs, but (~~impose~~) imposed stricter return to work rules. Effective January 1, 2024, the stricter return to work rules were removed and eligible retirees who retired under the three percent ERFs will have or have had their benefit recalculated under the 2008 ERFs.

(2) **If I retire before age (~~sixty-five~~) 65 using the 2008 ERFs, how will my benefit be calculated?** Your normal (age (~~sixty-five~~) 65) retirement benefit will be multiplied by the factor shown in the following table, based on your age at the time of your early retirement.

Retirement Age	2008 Early Retirement Factor
55	0.80
56	0.83
57	0.86
58	0.89
59	0.92
60	0.95
61	0.98
62	1.00
63	1.00
64	1.00
65	1.00

(3) **Am I eligible for the 2008 ERFs?** Plan 2 and Plan 3 members of PERS, SERS, and TRS, who entered membership prior to May 1, 2013, must be at least age (~~fifty-five~~) 55 and have at least (~~thirty~~) 30 service credit years to be eligible for retirement using the 2008 ERFs.

(4) **What are the return to work rules if I retire under the 2008 ERFs?** (~~The legislation that created the 2008 ERFs also established restrictions on retirees who return to an employer after selecting the 2008 ERF option. The 2008 ERF return to work restrictions are a broad prohibition to avoid incentives for early retirement while the member continues to collect payments from a public employer before reaching full retirement age. A retiree's benefit will stop if they retire under the 2008 ERFs and return to a DRS-covered employer, in any capacity for which they receive compensation, before age sixty-five.~~)

(5) ~~What are the exceptions to the return to work rules if I retire from SERS or TRS under the 2008 ERFs?~~ Under legislation effective May 8, 2019, you may return to work in a nonadministrative position as defined in WAC 415-02-030 for a school district, charter school, educational service district, state school for the deaf, state school for the blind, or tribal school without suspension of your benefit until you exceed eight hundred sixty-seven hours in a calendar year.

~~(6) What organizations are DRS-covered employers?~~ For the purpose of this section, a DRS-covered employer is any organization that employs one or more members of any retirement system administered by DRS. This includes, but is not limited to, public agencies, boards and commissions, counties, cities and towns, public schools and educational service districts, higher education institutions, libraries and utilities throughout the state. It also includes first class cities that maintain separate retirement systems but also employ members of the law enforcement officers' and fire fighters' retirement system.

~~(7) What types of compensation impact my benefit if I retire under the 2008 ERFs and return to work before age sixty-five?~~ The legislature defines "employment with an employer" for purposes of the 2008 ERF return to work restrictions as including "any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer." The phrase "any other similar compensated relationship with any employer" includes both employment with a DRS-covered employer and any other type of compensated relationship with a DRS-covered employer.

**Example:**

~~Bob, an attorney for the city of Olympia, retires using the 2008 ERFs. Can Bob receive his pension if he subsequently provides legal services to Spokane County?~~ It depends on whether Bob's compensated relationship with Spokane County meets the definition of "employment with an employer." Below are examples of the different types of potential compensated relationships Bob could have, and whether those relationships would be considered "employment with an employer."

~~**Personal service contract.**~~ If Bob has a personal service contract with Spokane County to provide legal services, then Bob would be considered to be in a "similar compensated relationship with an employer" within the meaning of the statute. Bob's monthly benefit would be suspended for any month in which he provides this compensated service to Spokane County.

~~**Sole proprietorship or partnership. 2008 ERF retiree is sole proprietor or partner.**~~ If Bob is a sole proprietor or a partner of a law firm; the firm contracts with Spokane County to provide services; and Bob or any other employee of the law firm provides legal services to Spokane County, then Bob would be considered to be in a "similar compensated relationship with an employer" within the meaning of the statute. Bob's monthly benefit would be suspended for any month in which he or his firm provides service to Spokane County under the contract.

~~**Corporation. 2008 ERF retiree is a shareholder of a publicly traded corporation.**~~ If Bob is a shareholder of a publicly traded corporation and the corporation contracts with Spokane County to provide services, then Bob would not be considered to be in a "similar compensated relationship with an employer" within the meaning of the statute. Bob's monthly benefit would not be suspended for any month in which the corporation provides service to Spokane County.

~~**Corporation. ERF retiree is an employee of the corporation.**~~ If Bob is working for the corporation solely on matters unrelated to the corporation's contract with Spokane County, Bob is not in a "similar compensated relationship" with Spokane County. Bob's monthly benefit would not be suspended for any month in which the corporation provides service to Spokane County.

If Bob is working for the corporation on matters that are related to the corporation's contract with Spokane County, then Bob would be



considered to be in a "similar compensated relationship with an employer."

~~(8) **What is considered compensation?** Compensation is financial consideration for work performed, regardless of whether that consideration is paid as a salary, hourly amount, or flat dollar amount. A reimbursement is not considered compensation.~~

**Examples:**

~~**Independent contractor** — A TRS Plan 2 member retires using the 2008 ERFs at age 62. He receives a \$2,500 monthly pension payment. When he is 64, he enters a contract to provide training for school employees. He receives a flat dollar amount of \$50 per trainee. Under the 2008 ERF return to work restrictions, he has received compensation from a DRS-covered employer. Therefore, his \$2,500 pension benefit is forfeited for the month he performed the services.~~

~~**Board/commission** — A PERS Plan 3 member retires using the 2008 ERFs at age 60. She receives a \$1,200 monthly pension payment. When she is 62, she is elected as a member of the local school board. As a school board member she does not receive a salary; however, she does receive reimbursements for travel and food. Under the 2008 ERF return to work restrictions, she is able to continue to receive her pension while receiving those reimbursements.~~

~~(9) **What are a DRS employer's responsibilities for determining whether an employee is a 2008 ERF retiree?** RCW 41.50.139 requires DRS employers to obtain, in writing, the retirement status of all new employees. If the employer fails to report a 2008 ERF retiree's retirement status to the department, the employer is liable for any overpayments that may occur.~~

~~(10) **What are a DRS employer's responsibilities for determining whether a contractor's employees are 2008 ERF retirees?** DRS employers who hire a contractor to perform services for their organization will need to inquire with the contractor and confirm with DRS to determine if any of the workers providing services to the DRS employer through the contractor retired using the 2008 ERFs, or if the company is owned by an individual who retired using the 2008 ERFs, and whether the nature of the service and compensation would result in a retirement benefit being suspended. See WAC 415-108-710 (PERS), 415-110-710 (SERS), and 415-112-525 (TRS).) Please refer to WAC 415-108-710, 415-110-710, and 415-112-525 for specific system rules.~~

**OTS-4834.2**

AMENDATORY SECTION (Amending WSR 22-13-091, filed 6/13/22, effective 7/14/22)

**WAC 415-106-700 What are the return to work rules for PSERS?**

(1) **How soon can I return to work after I retire without impacting my PSERS retirement benefit?** You may begin working immediately after you retire without impacting your PSERS retirement benefit if:

(a) You go to work for a private employer;

(b) You are an independent contractor as defined in WAC 415-02-110;

(c) Your only employment is as an elected official and you are not a PERS member; or

(d) You work in an ineligible position.

(2) If you return to work in a **PERS, SERS, or TRS Plan 2 or Plan 3, or LEOFF Plan 2 eligible position**, your retirement benefit will be affected as follows:

(a) If you retire and then return to work sooner than 30 consecutive calendar days from your accrual date (effective retirement date), your monthly retirement benefit will be reduced in accordance with RCW 41.37.050(1) until you remain absent for at least 30 consecutive calendar days.

(b) If you retire and remain absent at least 30 consecutive calendar days from your accrual date, you may work up to 867 hours each calendar year before your retirement benefit is suspended.

(3) If you return to work in an eligible **PSERS position**, your retirement benefit will be affected as follows:

(a) If you elect to reenter membership, your retirement benefit will be suspended. When you rerehire, your retirement benefit will be recalculated pursuant to WAC 415-106-710.

(b) If you return to an eligible PSERS position within 30 consecutive days of your accrual date (effective retirement date) and do not reenter membership, your monthly retirement benefit will be reduced by five and one-half percent for every eight hours you work during that month. This reduction will be applied each month until you remain absent for 30 consecutive calendar days. The reduction will accrue for a maximum of 160 hours per month. Any reduction over 100 percent will be applied to the benefit you are eligible to receive in subsequent months. See RCW 41.37.050(1).

(c) If you return to an eligible PSERS position after being absent for 30 consecutive calendar days from your accrual date (effective retirement date) and do not reenter membership, your retirement benefit will be suspended until you separate from PSERS employment.

(4) If you return to work after retirement from PSERS and another DRS retirement system, see WAC 415-113-300 to determine the effect of returning to work.

(5) **What is the annual limit?**

(a) No limit. You may work as many hours as you want without affecting your retirement benefit if you work:

(i) In a position that is not eligible for membership in a DRS or higher education retirement plan;

(ii) As an independent contractor;

(iii) For a private employer.

(b) **Eight hundred sixty-seven-hour limit.** You may work up to 867 hours in a calendar year, in a position that is eligible for membership in a DRS or a public institution of higher education retirement plan, before your retirement allowance is suspended.

(c) **One thousand forty-hour limit.** From April 14, 2023, through July 1, 2026, if you had a 30-day break from your accrual date, you may work up to 1,040 hours in a calendar year, at a state agency or higher education institution in a nonadministrative position as a licensed nurse.

(6) **What hours are counted toward the limit?**

(a) **Counted toward the ((867)) annual hour limit:** All compensated hours that are worked in an eligible position covered by a DRS or higher education retirement plan, including the use of earned sick leave, vacation days, paid holidays, compensatory time, and cashouts of compensatory time.

(b) **Not counted toward the hour limit:** Cashouts of unused sick and vacation leave.

~~((6))~~ (7) **What happens if I work more than the annual ~~((867))~~ hour limit?**

(a) If you work more than the annual limit, your retirement benefit will be suspended. The suspension will be effective the day after you exceed the hour limit. DRS will prorate your retirement benefit for the month in which you exceed the hour limit.

(b) Your retirement benefit will be restarted beginning the next calendar year (January) or the day after you terminate all eligible employment identified in subsection (2) of this section, whichever occurs first.

(c) DRS will recover any overpayments made to you for the month(s) in which you exceeded the work limit and received a retirement benefit. See RCW 41.50.130.

~~((7))~~ (8) **Terms used.**

(a) Accrual date - RCW 41.37.240.

(b) PSERS: Public safety employees' retirement system.

(c) Eligible position - RCW 41.37.010; WAC 415-106-100.

(d) Ineligible position - RCW 41.37.010.

(e) Membership - RCW 41.37.020.

(f) Month - Calendar month as defined in WAC 415-02-030.

### OTS-4833.1

AMENDATORY SECTION (Amending WSR 16-17-047, filed 8/11/16, effective 9/11/16)

**WAC 415-108-710 What are the return to work rules for PERS Plan 1, Plan 2, and Plan 3? (1) How soon can I return to work after I retire without impacting my PERS retirement benefit?**

(a) You may begin working immediately after you retire without impacting your PERS retirement benefit if:

(i) You go to work for a private employer;

(ii) You are an independent contractor as defined in WAC 415-02-110;

(iii) Your only employment is as an elected official and you end your PERS membership under RCW 41.40.023 (3)(b); or

(iv) You are a PERS Plan 1 retiree elected to office or appointed to office by the governor.

(b) If you retire and then return to work sooner than ~~((thirty))~~ 30 consecutive calendar days from your accrual date (effective retirement date), your monthly retirement benefit will be reduced in accordance with RCW 41.40.037(1) until you remain absent for at least ~~((thirty))~~ 30 consecutive calendar days.

(c) If you retire and remain absent at least ~~((thirty))~~ 30 consecutive calendar days from your accrual date, if you meet the definition of separation in WAC 415-02-115, you may return to work in any position ~~((eligible or ineligible))~~, for any employer whose retirement plan is administered by the department of retirement systems (DRS) or a public institution of higher education, without impacting your PERS retirement benefit until you reach your applicable hour limit.

(d) If you worked prior to retirement in an ineligible position and continue to work in the same ineligible position beyond retire-

ment, this will not be considered a violation of the 30 consecutive days in (b) and (c) of this subsection if separation from your employer, as defined in WAC 415-02-115, was satisfied.

(e) Examples:

(i) Pat works for Snohomish County and fully separates employment at the age of 60. Pat then moves to Spokane and begins employment with the Spokane Transit Authority in a position that is not eligible for retirement benefits. This employment continues and the position remains ineligible for retirement benefits. At age 65 Pat is eligible to begin collecting the PERS retirement benefit earned while working at Snohomish County, without terminating employment from Spokane Transit Authority.

(ii) Skyler works for the local library district until age 65 in a retirement eligible position, then begins working part time for the same library in a position that is not eligible for retirement. Skyler is not eligible to begin receiving a retirement benefit because they have not yet separated from employment with the employer they participated in the retirement system with.

(iii) Taylor works for two different employers concurrently. The position with employer one is a retirement eligible position and the position with employer two does not meet the requirements for retirement eligibility. Prior to age 65 Taylor separates from employment with employer one but continues to work for employer two in the ineligible position. When Taylor reaches age 65 they are eligible to begin receiving their retirement benefit because they have separated from employment with the employer they participated in the retirement system with.

**(2) What is the annual hour limit?** (~~(Except as provided in subsection (5) of this section regarding the 2008 early retirement factors (ERFs), after~~) All retirees including those retired under the alternate early retirement factors after separating from employment and being absent at least ((thirty)) 30 consecutive calendar days as described in subsection (1)(c) of this section, your annual hour limit will be based on the position you return to.

(a) **No limit.** You may work as many hours as you want without affecting your retirement benefit if you work:

(i) In a position that is not eligible for membership in a DRS or higher education retirement plan;

(ii) As an independent contractor;

(iii) For a private employer;

(iv) If you end your PERS membership as an elected official under RCW 41.40.023 (3)(b); or

(v) As a PERS Plan 1 retiree elected to office or appointed to office by the governor.

(b) **Eight hundred sixty-seven-hour limit.** You may work up to ((eight hundred sixty-seven)) 867 hours in a calendar year, in a position that is eligible for membership in a DRS or a public institution of higher education retirement plan, before your retirement allowance is suspended.

(c) One thousand forty-hour limit. From March 23, 2022, through June 30, 2025, if you had a 100-day break from your accrual date, you may work up to 1,040 hours in a calendar year, at a school district in a nonadministrative position that is eligible for membership in a DRS retirement plan, before your retirement allowance is suspended.

(d) One thousand forty-hour limit. From April 14, 2023, through July 1, 2026, if you had a 30-day break from your accrual date, you may work up to 1,040 hours in a calendar year, at a state agency or

higher education institution in a nonadministrative position as a licensed nurse.

(3) **What hours count toward the limit?**

(a) **Counted toward the ~~((eight hundred sixty-seven-hour))~~ annual hour limit:** All compensated hours that are worked in an eligible position covered by a DRS or higher education retirement plan, including the use of earned sick leave, vacation days, paid holidays, compensatory time, and cashouts of compensatory time.

(b) **Not counted toward the annual hour limit:** Cashouts of unused sick and vacation leave.

(4) **What happens if I work more than the annual ~~((eight hundred sixty-seven-hour))~~ hour limit?**

(a) If you work more than the annual limit, your retirement benefit will be suspended. The suspension will be effective the day after you exceed the hour limit. DRS will prorate your retirement benefit for the month in which you exceed the hour limit.

(b) Your retirement benefit will be restarted beginning the next calendar year (January) or the day after you terminate all eligible employment, whichever occurs first.

(c) DRS will recover any overpayments made to you for the month(s) in which you exceeded the work limit and received a retirement benefit. See RCW 41.50.130.

(5) ~~((What if I am a PERS Plan 2 or Plan 3 member and retired using the 2008 early retirement factors (ERFs)?~~

~~(a) If you retire using the 2008 ERFs and then return to work before age sixty-five:~~

~~(i) You will not receive your retirement benefit for any month in which you are an employee in a position covered by a DRS or higher education retirement plan including, but not limited to, permanent, non-permanent, project, temporary, eligible and ineligible positions.~~

~~(ii) You will not receive your retirement benefit for any month in which you earn compensation for service performed as a contractor, or as the result of service performed by those in your employ, for an employer covered by a DRS or higher education retirement plan.~~

~~(iii) Your retirement benefit will stop effective the first day of the month you return to work and will restart the first day of the month after you stop working.~~

~~(6))~~ **Can I return to PERS membership?**

(a) If you retire from PERS, you have the option to return to membership if you are employed by a PERS employer and meet the eligibility criteria. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership. See RCW 41.40.023(12).

(b) If you reenter PERS membership and later choose to retire again, DRS will recalculate your retirement benefit under the applicable statutes and regulations. See WAC 415-108-830. You will be subject to the return to work rules in place at the time of your reretirement.

(c) If you are a retiree from another retirement system administered by DRS, you may choose to enter PERS membership if you are eligible. See WAC 415-108-725. The option to enter membership is prospective from the first day of the month following the month in which you request membership. See RCW 41.40.270 and 41.40.023.

~~((7) What if I retired from PERS and another DRS retirement system?~~

~~(a) If you retired from PERS using the 2008 ERFs and another DRS retirement system, and are under age sixty-five:~~

~~(i) Your PERS retirement benefit will be impacted as described in subsection (5) of this section.~~

~~(ii) The retirement benefit from the other DRS retirement system will be impacted based on the rules for that system.~~

~~(b) If you retired from PERS and another DRS retirement system without using the 2008 ERFs, or using the 2008 ERFs and have reached age sixty-five, see WAC 415-113-300 to determine the effect of returning to work.)~~

Note: You may have a choice of returning to membership. See the following WAC sections for more information: WAC 415-108-725, 415-110-725, 415-112-546, 415-106-725, and 415-104-111.

~~((8))~~ (6) **Terms used.**

(a) 2008 Early retirement factors (ERFs) - RCW 41.40.630 (3) (b) for PERS Plan 2 or RCW 41.40.820 (3) (b) for PERS Plan 3.

(b) Accrual date - RCW 41.40.193, 41.40.680, 41.40.801.

(c) PERS: Public employees' retirement system.

(d) Elected official - WAC 415-108-550.

(e) Eligible position - RCW 41.40.010; WAC 415-108-680 through 415-108-700.

(f) Ineligible position - RCW 41.40.010.

(g) Month - Calendar month as defined in WAC 415-02-030.

(h) Public institution of higher education - RCW 28B.10.400.

(i) Membership - RCW 41.40.023.

(j) Alternate early retirement factors - RCW 41.40.630(3).

## OTS-4832.2

AMENDATORY SECTION (Amending WSR 20-01-079, filed 12/11/19, effective 1/11/20)

**WAC 415-110-710 What are the return to work rules for SERS Plan 2 and Plan 3? (1) How soon can I return to work after I retire without impacting my SERS retirement benefit?**

(a) You may begin working immediately after you retire without impacting your SERS retirement benefit if:

(i) You go to work for a private employer;

(ii) You are an independent contractor as defined in WAC 415-02-110; or

(iii) Your only employment is as an elected official and you end your SERS membership under RCW 41.35.030 (2) (b).

(b) If you retire and then return to work sooner than ~~((thirty))~~ 30 consecutive calendar days from your accrual date (effective retirement date), your monthly retirement benefit will be reduced in accordance with RCW 41.35.060(1) until you remain absent for at least ~~((thirty))~~ 30 consecutive calendar days.

(c) If you retire and remain absent at least ~~((thirty))~~ 30 consecutive calendar days from your accrual date, if you meet the definition of separation in WAC 415-02-115, you may return to work in any position ~~((eligible or ineligible))~~ for any employer whose retirement plan is administered by the department of retirement systems (DRS) or a public institution of higher education, without impacting your SERS retirement benefit until you reach your applicable hour limit.

(d) If you worked prior to retirement in an ineligible position and continue to work beyond retirement, this will not be considered a violation of the 30 consecutive days in (b) and (c) of this subsection assuming that separation from your employer as defined in WAC 415-02-115 was satisfied.

**Examples:** ~~((Amy's last day at work for the ABC school district is June 19, 2015, and her official retirement date is September 1, 2015, (when she starts getting her monthly benefit). She wants to return to work at the start of the new school year on September 8, 2015. She needs to wait thirty consecutive calendar days from her September 1st retirement date before returning to work. If she returns to work before October 1st, her benefit will be reduced until she meets the required thirty-day break from employment.))~~

(i) Pat works for Evergreen School District and fully separates employment at the age of 60. Pat then moves to Spokane and begins employment with the Spokane Library District in a position that is not eligible for retirement benefits. This employment continues and the position remains ineligible for retirement benefits. At age 65 Pat is eligible to begin collecting the school employees' retirement system (SERS) retirement benefit earned while working at Evergreen School District, without terminating employment from Spokane Library District.

(ii) Skyler works for Odessa School District until age 65 in a retirement eligible position, then begins working part time for the same school in a position that is not eligible for retirement. Skyler is not eligible to begin receiving their retirement benefit because they have not yet separated from employment with the employer they participated in the retirement system with.

(iii) Parker works for Spokane Public Schools until age 63 at which point, they separate employment and have their name placed on the on-call substitute teacher list at a number of local school districts. Parker substitutes occasionally for the Deer Park, Mead, and Cheney schools. At age 65 they are eligible to begin collecting the TRS benefit that was earned while working at the Spokane Public Schools without terminating employment from the substitute positions.

(iv) Taylor works for two different employers over the same period of time. The position with employer one is a retirement eligible position and the position with employer two does not meet the requirements for retirement eligibility. Prior to age 65 Taylor separates from employment with employer one but continues to work for employer two in the ineligible position. When Taylor reaches age 65 they are eligible to begin receiving their retirement benefit because they have separated from employment with the employer they participated in the retirement system with.

**(2) What is the annual hour limit?** ~~((Except as provided in subsection (5) of this section regarding the 2008 early retirement factors (ERFs), after))~~ All retirees including those retired under the alternate early retirement factors after separating from employment and being absent at least ((thirty)) 30 consecutive calendar days as described in subsection (1)(c) of this section, your annual hour limit will be based on the position you return to.

**(a) No limit.** You may work as many hours as you want without affecting your retirement benefit if you work:

- (i) In a position that is not eligible for membership in a DRS or higher education retirement plan;
- (ii) As an independent contractor;
- (iii) For a private employer; or

(iv) If you end your SERS membership as an elected official under RCW 41.35.030 (2) (b).

(b) **Eight hundred sixty-seven-hour limit.** You may work up to ~~((eight hundred sixty-seven))~~ 867 hours in a calendar year, in a position which is eligible for membership in a DRS or public institution of higher education retirement plan, before your retirement benefit is suspended.

(c) One thousand forty-hour limit. From March 23, 2022, through June 30, 2025, you may work up to 1,040 hours in a calendar year, at a school district in a nonadministrative position that is eligible for membership in a DRS retirement plan, before your retirement allowance is suspended.

(3) **What hours count toward the annual hour limit?**

(a) **Counted toward the ~~((eight hundred sixty-seven))~~ annual hour limit:** All compensated hours that are worked in an eligible position covered by a DRS or higher education retirement plan, including the use of earned sick leave, vacation days, paid holidays, compensatory time, and cashouts of compensatory time.

(b) **Not counted toward the annual hour limit:** Cashouts of unused sick and vacation leave.

(4) **What happens if I work more than the annual ~~((eight hundred sixty-seven))~~ hour limit?**

(a) If you work more than the annual hour limit, your retirement benefit will be suspended. The suspension will be effective the day after you exceed the hour limit. DRS will prorate your retirement benefit for the month in which you exceed the limit.

(b) Your retirement benefit will be restarted beginning the next calendar year (January) or the day after you terminate all eligible employment, whichever occurs first.

(c) DRS will recover any overpayments made to you for the month(s) in which you exceeded the annual hour limit and received a retirement benefit. See RCW 41.50.130.

~~(5) ((If you retire using the 2008 ERFs and return to work before age sixty-five except as described in subsection (6) of this section:~~

~~(a)(i) You will not receive your retirement benefit for any month in which you are an employee in a position covered by a DRS or higher education retirement plan including, but not limited to, permanent, nonpermanent, project, temporary, eligible and ineligible positions.~~

~~(ii) You will not receive your retirement benefit for any month in which you earn compensation for service performed as a contractor, or as the result of service performed by those in your employ, for an employer covered by a DRS or higher education retirement plan.~~

~~(iii) Your retirement benefit will stop effective the first day of the month you return to work and will restart the first day of the month after you stop working.~~

~~(b) Upon reaching age sixty-five you can work under the rules described in subsections (2) and (3) of this section.~~

~~(6) As a 2008 ERF retiree, can I work and still receive my retirement benefit?~~

~~(a) If you retire using the 2008 ERFs, effective May 8, 2019, you may return to work before age sixty-five in a nonadministrative position at a school district, charter school, educational service district, state school for the deaf, state school for the blind, or tribal school and work up to eight hundred sixty-seven hours in a calendar year. If you work more than eight hundred sixty-seven hours, your benefit will be subject to suspension and restarting as described in subsection (4) of this section.~~



~~(b) Upon reaching age sixty-five you can work under the rules described in subsections (2) and (3) of this section.~~

~~(7))~~ **Can I return to SERS membership?**

(a) If you retire from SERS, you have the option to return to membership if you are employed by a SERS employer and meet the eligibility criteria. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership. See RCW 41.35.030(3).

(b) If you reenter SERS membership and later choose to retire again, DRS will recalculate your retirement benefit under the applicable statutes and regulations. See WAC 415-110-830. You will be subject to the return to work rules in place at the time of your reretirement.

(c) If you are a retiree from another retirement system administered by DRS, you may choose to enter SERS membership if you are eligible. See WAC 415-110-725. The option to enter membership is prospective from the first day of the month following the month in which you request membership. See RCW 41.04.270 and 41.35.030.

~~((8))~~ **(6) What if I retired from SERS and another DRS retirement system?** ~~((a) If you retired from SERS using the 2008 ERFs and another DRS retirement system and are under age sixty-five:~~

~~(i) Your SERS retirement benefit will be impacted as described in subsections (5) and (6) of this section.~~

~~(ii) The retirement benefit from the other DRS retirement system will be impacted based on the rules for that system.~~

~~(b) If you retired from SERS and another DRS retirement system without using the 2008 ERFs, or using the 2008 ERFs and have reached age sixty-five)~~

~~If you return to work after retirement from SERS and another DRS retirement system, see WAC 415-113-300 to determine the effect of returning to work.~~

Note: You may have a choice of returning to membership. See the following WAC sections for more information: WAC 415-108-725, 415-110-725, 415-112-546, 415-106-725, and 415-104-111.

~~((9))~~ **(7) Terms used.**

~~(a) ((2008 Early retirement factors (ERFs) -- RCW 41.35.420 (3) (b) for SERS Plan 2, or RCW 41.35.680 for SERS Plan 3.~~

~~(b))~~ Accrual date - RCW 41.35.450, 41.35.640.

~~((e))~~ (b) Elected official - WAC 415-110-550.

~~((d))~~ (c) Eligible position - RCW 41.35.010; WAC 415-110-680 through 415-110-700.

~~((e))~~ (d) Ineligible position - RCW 41.35.010.

~~((f))~~ (e) Member - RCW 41.35.010.

~~((g))~~ (f) Month - Calendar month as defined in WAC 415-02-030.

~~((h))~~ (g) Nonadministrative position - WAC 415-02-030.

~~((i))~~ (h) Public institution of higher education - RCW 28B.10.400.

~~((j))~~ (i) SERS - School employees' retirement system.

**OTS-4831.1**

AMENDATORY SECTION (Amending WSR 20-01-079, filed 12/11/19, effective 1/11/20)

**WAC 415-112-525 What are the return to work rules for TRS Plan 1, Plan 2, and Plan 3? (1) How soon can I return to work after I retire without impacting my TRS retirement benefit?**

(a) You may begin working immediately after you retire without impacting your TRS retirement benefit if:

(i) You go to work for a private employer;

(ii) You are an independent contractor as defined in WAC 415-02-110; or

(iii) You are a TRS Plan 1 retiree, your only employment is as an elected official, and you end your TRS membership under RCW 41.32.263.

(b) If you retire and then return to work for a public employer except as provided in (a) of this subsection, sooner than ~~((thirty))~~ 30 consecutive calendar days from your accrual date (effective retirement date), your retirement allowance will be reduced until you remain absent for at least ~~((thirty))~~ 30 consecutive calendar days. See RCW 41.32.570 (TRS Plan 1), 41.32.802 (TRS Plan 2), or 41.32.862 (TRS Plan 3).

(c) If you retire and remain absent at least ~~((thirty))~~ 30 consecutive calendar days from your accrual date, if you meet the definition of separation in WAC 415-02-115, you may return to work in any position ~~((eligible or ineligible))~~ for any employer whose retirement plan is administered by the department of retirement systems (DRS) or a public institution of higher education, without impacting your TRS retirement benefit until you reach your applicable annual hour limit.

(d) ~~((Examples:~~

~~(i) Return to work with no reduction~~

~~Casey's last day of work is January 20th. Her accrual date (effective retirement date) is February 1st, and there are 28 days in February. If Casey wants to return to work for a public employer after she retires, she will need to wait until at least March 3rd to avoid the daily percentage reduction in her retirement allowance.~~

~~(ii) Return to work before thirty day waiting period ends~~

~~Brian's last day of work is September 1st. His accrual date (effective retirement date) is October 1st. Brian returns to work October 10 through October 17th. In November, Brian's retirement allowance will be reduced by 5.5% for every seven hours worked during October. Brian's new thirty day wait period would be October 18th through November 16th.)~~ If you worked prior to retirement in an ineligible position and continue to work in the same ineligible position beyond retirement, this will not be considered a violation of the 30 consecutive days in (b) and (c) of this subsection assuming that separation from your employer as defined in WAC 415-02-115 was satisfied.

~~(e) Examples:~~

~~(i) Pat works for Evergreen School District and fully separates employment at the age of 60. Pat then moves to Spokane and begins employment with the Spokane Library District in a position that is not eligible for retirement benefits. This employment continues and the position remains ineligible for retirement benefits. At age 65 Pat is eligible to begin collecting the TRS retirement benefit earned while working at Evergreen School District, without terminating employment from Spokane Library District.~~

~~(ii) Skyler works for Odessa School District until age 65 in a retirement eligible position, then begins working part time for the~~

same school in a position that is not eligible for retirement. Skyler is not eligible to begin receiving their retirement benefit because they have not yet separated from employment with the employer they participated in the retirement system with.

(iii) Parker works for Spokane Public Schools until age 63 at which point, they separate employment and have their name placed on the on-call substitute teacher list at a number of local school districts. Parker substitutes occasionally for the Deer Park, Mead, and Cheney schools. At age 65 they are eligible to begin collecting the TRS benefit that was earned while working at the Spokane Public Schools without terminating employment from the substitute positions.

(iv) Taylor works for two different employers over the same period of time. The position with employer one is a retirement eligible position and the position with employer two does not meet the requirements for retirement eligibility. Prior to age 65 Taylor separates from employment with employer one but continues to work for employer two in the ineligible position. When Taylor reaches age 65 they are eligible to begin receiving their retirement benefit because they have separated from employment with the employer they participated in the retirement system with.

(2) **What is the annual hour limit?** (~~(Except as provided in subsection (5) of this section regarding the 2008 early retirement factors, after)~~) All retirees including those retired under the alternate early retirement factors after separating from employment and being absent at least ((thirty)) 30 consecutive calendar days as described in subsection (1)(c) of this section, your annual hour limit will be based on the position you return to.

(a) **No limit.** You may work as many hours as you want without affecting your retirement benefit if:

(i) You go to work for a private employer;

(ii) You are an independent contractor as defined in WAC 415-02-110; or

(iii) You are a TRS Plan 1 retiree, and:

(A) Your only employment is as an elected official, and you end your TRS membership under RCW 41.32.263; or

(B) You go to work for a nonpublic educational institution.

(iv) You are a TRS Plan 2 or Plan 3 member working as an on-call substitute teacher.

(b) **Eight hundred sixty-seven-hour limit.** You may work up to ((eight hundred sixty-seven)) 867 hours in a year (July through June for TRS Plan 1, January through December for TRS Plan 2 and Plan 3) before your retirement benefit is suspended.

(c) **One thousand forty-hour limit.** From March 23, 2022, through June 30, 2025, you may work up to 1,040 hours in a year, (July through June for TRS Plan 1, January through December for TRS Plan 2 and Plan 3) in a position that is eligible for a DRS retirement plan, in:

(i) A nonadministrative position at a school district before your retirement allowance is suspended; or

(ii) An administrative position (as a district superintendent or an in-school administrator) before your retirement allowance is suspended if, you retired before January 1, 2022, and returned to a TRS position at a second-class school district.

(3) **What hours count toward the limit?**

(a) **Counted toward the ((eight hundred sixty-seven-hour)) annual hour limit:** All compensated hours that are worked in an eligible position, including the use of earned sick leave, vacation days, paid holidays, compensatory time, and cashouts of compensatory time.

(b) **Not counted toward the annual hour limit:** Cashouts of unused sick and vacation leave.

(4) **What happens if I work more than the annual ((eight hundred sixty-seven-hour) hour limit?**

(a) If you work more than the annual hour limit, your retirement benefit will be suspended. The suspension will be effective the day after you exceed the hour limit. DRS will prorate your retirement benefit for the month in which you exceed the limit.

(b) Your retirement benefit will be restarted beginning the next year (July for TRS Plan 1, January for TRS Plan 2 or Plan 3) or the day after you terminate all eligible employment, whichever occurs first.

(c) DRS will recover any overpayments made to you for the month(s) in which you exceeded the hour limit and received a retirement benefit. See RCW 41.50.130.

(5) ~~((What if I am a TRS Plan 2 or Plan 3 member and retired using the 2008 early retirement factors (ERFs)?~~

~~(a) If you retire using the 2008 ERFs and return to work before age sixty-five except as described in subsection (6) of this section:~~

~~(i) You will not receive your retirement benefit for any month in which you are an employee in a position covered by a DRS or higher education retirement plan including, but not limited to, permanent, non-permanent, project, temporary, eligible and ineligible positions.~~

~~(ii) You will not receive your retirement benefit for any month in which you earn compensation for service performed as a contractor, or as the result of service performed by those in your employ, for an employer covered by a DRS or higher education retirement plan.~~

~~(iii) Your retirement benefit will stop effective the first day of the month you return to work and will restart the first day of the month after you stop working.~~

~~(b) Upon reaching age sixty-five you can work under the rules described in subsections (2) and (3) of this section.~~

~~(6) **As a 2008 ERF retiree, can I work and still receive my retirement benefit?**~~

~~(a) If you retire using the 2008 ERFs, effective May 8, 2019, you may return to work before age sixty-five in a nonadministrative position at a school district, charter school, educational service district, state school for the deaf, state school for the blind, or tribal school and work up to eight hundred sixty-seven hours in a calendar year. If you work more than eight hundred sixty-seven hours, your benefit will be subject to suspension and restarting described in subsection (4) of this section.~~

~~(b) If you retired using the 2008 ERFs and returned to work as a substitute teacher in a classroom between June 10, 2016, and May 7, 2019, you will continue to receive your retirement benefit for up to eight hundred sixty-seven hours in a calendar year. After May 7, 2019, (a) of this subsection will continue to allow the provisions of this section for substitute teachers.~~

~~(c) Upon reaching age sixty-five you can work under the rules described in subsections (2) and (3) of this section.~~

~~(7)) **Can I return to TRS membership?**~~

~~(a) You may choose to return to membership if you are employed by a public educational institution and are otherwise eligible. Membership will be prospective from the first day of the month following the month in which you request to return to membership. See RCW 41.32.044.~~

~~(b) If you reenter TRS membership and later choose to retire again, DRS will recalculate your retirement benefit under the applica-~~

ble statutes and regulations. You will be subject to the return to work rules in place at the time of your reretirement.

(c) If you are a retiree from another retirement system administered by DRS, you may choose to enter TRS membership if you are eligible. See WAC 415-112-546. The option to enter membership is prospective from the first day of the month following the month in which you request membership. See RCW 41.04.270 and 41.35.030.

~~((8))~~ **(6) What if I retired from TRS and another DRS retirement system?** ~~((a) If you retired from TRS using the 2008 ERFs and another DRS retirement system, and are under age sixty-five:~~

~~(i) Your TRS retirement benefit will be impacted as described in subsections (5) and (6) of this section.~~

~~(ii) The retirement benefit from the other DRS retirement system will be impacted based on the rules for that system.~~

~~(b) If you retired from TRS and another DRS retirement system without using the 2008 ERFs, or using the 2008 ERFs and have reached age sixty-five)~~ If you return to work after retirement from TRS and another DRS retirement system, see WAC 415-113-300 to determine the effect of returning to work.

Note: You may have a choice of returning to membership. See the following WAC sections for more information: 415-108-725, 415-110-725, 415-112-546, 415-106-725, and 415-104-111.

~~((9))~~ **(7) Terms used.**

(a) "Accrual date" - WAC 415-112-520; RCW 41.32.795, 41.32.855.

(b) "Eligible position" - RCW 41.32.010.

(c) "Employer" - RCW 41.32.010.

(d) "Nonadministrative position" - WAC 415-02-030.

(e) "Second-class school district" - RCW 28A.300.065.

(f) "Year."

(i) For TRS Plan 1, a "year" is July 1st through June 30th.

(ii) For TRS Plan 2 and Plan 3, a "year" is January 1st through December 31st.

## WSR 23-24-095

## PERMANENT RULES

## HEALTH CARE AUTHORITY

[Filed December 6, 2023, 9:07 a.m., effective January 6, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending WAC 182-513-1110 to remove presumptive eligibility for long-term services and supports (LTSS) in an alternate living facility. This change is currently effective by emergency rule filed under WSR 23-19-050. The agency adopted WAC 182-513-1110 anticipating federal government approval from the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). Currently, CMS has approved presumptive eligibility for LTSS in the person's home, but discussions continue for alternate living facilities. Because federal funding is not yet available, the agency is amending the rule to remove language related to LTSS in an alternate living facility and hopes to restore that language through future rule making upon CMS approval.

Citation of Rules Affected by this Order: Amending WAC 182-513-1110.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 23-22-105 on October 31, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 6, 2023.

Wendy Barcus  
Rules Coordinator

## OTS-4950.1

AMENDATORY SECTION (Amending WSR 23-14-101, filed 6/30/23, effective 9/1/23)

**WAC 182-513-1110 Presumptive eligibility (PE)—Long-term services and supports (LTSS) in a home setting ((~~or in an alternate living facility (ALF)~~)) authorized by home and community services (HCS).** (1) A person may be determined presumptively eligible for long-term services and supports (LTSS) in their own home, as defined in WAC 388-106-0010 (~~(, or in an alternate living facility, as defined in WAC 182-513-1100)~~):

- (a) Upon completion of a screening interview; and
- (b) When authorized by home and community services (HCS).

(2) The screening interview described in subsection (3) of this section may be conducted by either:

- (a) A HCS case manager or social worker;
- (b) An area agency on aging (AAA) or their subcontractor; or
- (c) A state designated tribal entity.

(3) To be presumptively eligible (PE), the person must:

(a) Be determined to meet nursing facility level of care under WAC 388-106-0355 during the screening interview; and

(b) Attest to information that meets the:

(i) Income limits at or below the average monthly state nursing facility rate;

(ii) Resource limits defined under WAC 182-513-1350;

(iii) Social security requirement under WAC 182-503-0515;

(iv) Residency requirement under WAC 182-503-0520; and

(v) Aged, blind, or disabled requirement under WAC 182-512-0050.

(4) The agency or the agency's designee determines how much client responsibility must be paid to the provider for PE home and community-based services authorized by HCS when living at home (~~or in an alternate living facility~~) as outlined in WAC 182-513-1215, 182-515-1507, and 182-515-1509.

(5) The client or the client's representative must submit an on-line application through Washington connection or an HCA 18-005 application for aged, blind, disabled/long-term care coverage to HCS within 10 calendar days of PE determination.

(6) The PE period begins on the date the screening interview is completed and:

(a) Ends on the last day of the month following the month of the PE determination if an LTSS application is not completed and submitted within 10 calendar days of PE determination; or

(b) Ends the last day of the month that the final eligibility determination is made if a LTSS application is submitted under subsection (5) of this section within 10 calendar days of PE determination.

(7) For application processing times, refer to WAC 182-503-0060.

(8) If the applicant is determined not financially eligible for LTSS under WAC 182-513-1315, there is no overpayment for services received during the PE period; however, client responsibility applies as described in WAC 182-513-1215, 182-515-1507, and 182-515-1509.

(9) People who qualify for PE under this section receive categorically needy (CN) medical coverage under WAC 182-501-0060 through the PE period. CN medical coverage begins as described in WAC 182-503-0070(1).

(10) When PE services described in WAC 388-106-1810 and 388-106-1820 are approved or denied, the agency or the agency's designee sends written notice as described in WAC 182-518-0010.

(11) A person may receive services under a PE period only once within a consecutive 24-month period.

(12) The applicant does not have a right to an administrative hearing on PE decisions under chapter 182-526 WAC.

(13) Institutional resource and income standards are found at <https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.

(14) This section does not apply to medical assistance programs described in WAC 182-507-0125 or 182-508-0005.

## WSR 23-24-099

## PERMANENT RULES

## HEALTH CARE AUTHORITY

[Filed December 6, 2023, 9:26 a.m., effective January 6, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The health care authority (agency) held a public hearing on September 26, 2023, on WAC 182-535A-0040 under WSR 23-17-086 to make the requirements for "case study" less restrictive in subsection (5)(c). The agency removed "*when done in conjunction with limited or comprehensive treatment only*" and replaced it with "*when done in conjunction with orthodontic treatment.*"

After the public hearing, the agency recognized that another revision to this section was necessary to make the language less restrictive in who must perform treatment and follow-up care. A supplemental notice was filed on October 25, 2023, under WSR 23-22-055 with a public hearing held on December 5, 2023. The agency revised the language for who can provide treatment and follow-up care to read "*by a provider who is part of a craniofacial team that includes, but is not limited to, a general or pediatric dentist, orthodontist, and a maxillofacial surgeon or specialist.*" The agency removed "*only by an orthodontist or agency-recognized craniofacial team.*"

Citation of Rules Affected by this Order: Amending WAC 182-535A-0040.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 23-22-055 on October 25, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 6, 2023.

Wendy Barcus  
Rules Coordinator

## OTS-4725.2

AMENDATORY SECTION (Amending WSR 23-08-009, filed 3/23/23, effective 4/23/23)

**WAC 182-535A-0040 Orthodontic treatment and orthodontic-related services—Covered, noncovered, and limitations to coverage.** Orthodontic treatment and orthodontic-related services require prior authorization.



(1) The medicaid agency covers orthodontic treatment and orthodontic-related services for a client who has one of the medical conditions listed in (a) and (b) of this subsection. Treatment and follow-up care must be performed (~~only by an orthodontist or agency recognized craniofacial team~~) by a provider who is part of a craniofacial team that includes, but is not limited to, a general or pediatric dentist, orthodontist, and an oral maxillofacial surgeon or specialist.

(a) Cleft lip and palate, cleft palate, or cleft lip.

(b) The following craniofacial anomalies including, but not limited to:

- (i) Hemifacial microsomia;
- (ii) Craniosynostosis syndromes;
- (iii) Cleidocranial dental dysplasia;
- (iv) Arthrogyrosis;
- (v) Marfan syndrome;
- (vi) Treacher Collins syndrome;
- (vii) Ectodermal dysplasia; or
- (viii) Achondroplasia.

(2) The agency authorizes orthodontic treatment and orthodontic-related services when the following criteria are met:

(a) Severe malocclusions with a Washington Modified Handicapping Labiolingual Deviation (HLD) Index Score of 25 or higher as determined by the agency;

(b) The client has established caries control; and

(c) The client has established plaque control.

(3) The agency covers orthodontic treatment for dental malocclusions other than those listed in subsections (1) and (2) of this section on a case-by-case basis when the agency determines medical necessity based on documentation submitted by the provider.

(4) The agency does not cover the following orthodontic treatment or orthodontic-related services:

(a) Orthodontic treatment for cosmetic purposes;

(b) Orthodontic treatment that is not medically necessary;

(c) Orthodontic treatment provided out-of-state, except as stated in WAC 182-501-0180 (see also WAC 182-501-0175 for medical care provided in bordering cities); or

(d) Orthodontic treatment and orthodontic-related services that do not meet the requirements of this section or other applicable WAC.

(5) The agency covers the following orthodontic treatment and orthodontic-related services:

(a) Limited orthodontic treatment.

(b) Comprehensive full orthodontic treatment on adolescent dentition.

(c) A case study when done in conjunction with (~~limited or comprehensive~~) orthodontic treatment (~~only~~).

(d) Other orthodontic treatment subject to review for medical necessity as determined by the agency.

(6) The agency covers the following orthodontic-related services:

(a) Clinical oral evaluations according to WAC 182-535-1080.

(b) Cephalometric films that are of diagnostic quality, dated, and labeled with the client's name.

(c) Orthodontic appliance removal as a stand-alone service only when:

(i) The client's appliance was placed by a different provider or dental clinic; and

(ii) The provider has not furnished any other orthodontic treatment or orthodontic-related services to the client.

(7) The treatment must meet industry standards and correct the medical issue. If treatment is discontinued prior to completion, or treatment objectives are not achieved, the provider must:

(a) Document in the client's record why treatment was discontinued or not completed, or why treatment goals were not achieved.

(b) Notify the agency by submitting the Orthodontic Discontinuation of Service form (HCA 13-0039).

(8) The agency evaluates a request for orthodontic treatment or orthodontic-related services:

(a) That are in excess of the limitations or restrictions listed in this section, according to WAC 182-501-0169; and

(b) That are listed as noncovered according to WAC 182-501-0160.

(9) The agency reviews requests for orthodontic treatment or orthodontic-related services for clients who are eligible for services under the EPSDT program according to the provisions of WAC 182-534-0100.