ably obtainable, having due regard for its necessity, availability, and trustworthiness.

"Relevant evidence" means evidence having a tendency to make the determination of the action more or less probable than it would be without the evidence. In passing upon admissibility of evidence, the presiding officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior courts in the state of Washington. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The presiding officer may, in his or her discretion, either with or without objection, exclude inadmissible evidence, or order accumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered. If the sole evidence to support the allegation is hearsay that would be inadmissible in a superior court proceeding and is not substantiated or corroborated, the board shall not enter a finding of guilt. If the sole evidence presented to substantiate the allegation is the result of a polygraph examination, a finding of guilty shall not be made.

The results of polygraph examinations shall not be admissible into evidence at parole revocation hearings unless the following circumstances are present:

(1) The parties have stipulated that the polygraph examination be conducted and the results be admissible in a parole revocation hearing. Such stipulation may be evidenced by showing that the parolee has submitted to a condition of parole that he or she submit himself or herself to polygraph examination at the request of the community corrections officer and that the results of said examination(s) shall be admissible at a subsequent parole revocation hearing. Other stipulations shall be in writing, signed by the community corrections officer or his agent and by the parolee; and

(2) The board panel or member specifically finds that the polygraph examiner is qualified and the proper conditions existed during administration of the test; and

(3) The parties have been afforded an opportunity to confrontation of the examiner, unless good cause for nonconfrontation is specifically found or confrontation is waived.

The board will require polygraph examinations in appropriate cases. Polygraphs will be provided to indigent parolees at state expense, through the department of corrections. Parolees who are not indigent will be required to obtain a polygraph at his/her own expense.

[95-06-008 § 381-70-400, filed 2/16/95, effective 2/13/95. 91-14-029, § 381-70-400, filed 6/26/91, effective 7/27/91.]

Title 388 WAC

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF (PUBLIC ASSISTANCE)

Chapters

Chapter 388-08 WAC
PRACTICE AND PROCEDURE—FAIR HEARING

WAC

WAC 388-08-585 Equitable estoppel. (1) Equitable estoppel is an available defense to an appellant who is an applicant or a recipient of public assistance as defined in RCW 74.04.005(1), in an adjudicative proceeding pertaining to that applicant's or recipient's public assistance benefits.

(2) When an applicant or a recipient of public assistance raises, or the facts indicate, a claim that the equitable estoppel defense may apply to a party to the proceeding, the presiding officer shall consider the defense of equitable estoppel according to the precedents set by reported Washington state appellate case law.

(3) The presiding officer shall enter findings of fact and conclusions of law sufficient to determine whether:

(a) The equitable estoppel defense applies to the appeal; and, if so

(b) Each element of the defense has been met by the party asserting or benefitting from the defense in accordance with subsection (4) of this section.

(4) The party asserting or benefitting from the equitable estoppel defense shall establish each element of the defense by clear, cogent, and convincing evidence.

[Statutory Authority: Chapter 74.50 RCW. 95-23-029 (Order 3915), § 388-08-585, filed 11/8/95, effective 12/9/95.]

Chapter 388-15 WAC
SOCIAL SERVICES FOR FAMILIES, CHILDREN AND ADULTS

WAC

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-15-208 Definitions. [Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-208, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-08-011 (Order 3152), § 388-15-208, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-208, filed 7/13/90, effective 8/13/90; 89-13-084 (Order 2815), § 388-15-208, filed 6/21/89; 88-17-064 (Order 2674), § 388-15-208, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-208, filed 3/2/88; 86-12-040 (Order 2383), § 388-15-208, filed 5/30/86; 84-22-017 (Order 2165), § 388-15-208, filed 10/31/84; 83-14-029 (Order 1977), § 388-15-208, filed 6/30/83; 82-23-056 (Order 1904), § 388-15-208, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-208, filed 8/28/81; 81-11-044 (Order 1652), § 388-15-208, filed 5/20/81; 81-06-063 (Order 1618), § 388-15-208, filed 3/4/81.] Repealed by 95-20-041 (Order 3904), filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

388-15-212 Service determination. [Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-212, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-08-011 (Order 3152), § 388-15-212, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-212, filed 7/13/90, effective 8/13/90; 89-13-084 (Order 2815), § 388-15-212, filed 6/21/89; 88-17-064 (Order 2674), § 388-15-212, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-212, filed 3/2/88. Statutory Authority: ESHB 1221. 87-22-013 (Order 2550), § 388-15-212, filed 10/26/87. Statutory Authority: RCW 74.08.090. 86-12-040 (Order 2383), § 388-15-212, filed 5/30/86; 84-22-017 (Order 2165), § 388-15-212, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-212, filed

10/6/83; 82-23-056 (Order 1904), § 388-15-212, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-212, filed 8/28/81; 81-11-044 (Order 1652), § 388-15-212, filed 5/20/81; 81-06-063 (Order 1618), § 388-15-212, filed 3/4/81; 79-01-042 (Order 1361), § 388-15-212, filed 12/21/78.] Repealed by 95-20-041 (Order 3904), filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

388-15-213 Payment. [Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-213, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-213, filed 7/13/90, effective 8/13/90; 88-17-064 (Order 2674), § 388-15-213, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-213, filed 3/2/88. Statutory Authority: ESHB 1221. 87-22-013 (Order 2550), § 388-15-213, filed 10/26/87. Statutory Authority: RCW 74.08.090. 86-08-085 (Order 2361), § 388-15-213, filed 4/2/86; 84-22-017 (Order 2165), § 388-15-213, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-213, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-213, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-213, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-213, filed 3/4/81; Order 1238, § 388-15-213, filed 8/31/77.] Repealed by 95-20-041 (Order 3904), filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

388-15-217 Chore personal care services for employed disabled adults. [Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-217, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-217, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-217, filed 8/29/89, effective 9/29/89; 88-11-062 (Order 2625), § 388-15-217, filed 5/17/88; 83-21-007 (Order 2028), § 388-15-217, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-217, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-217, filed 8/28/81; 81-03-075 (Order 1589), § 388-15-217, filed 1/21/81.] Repealed by 95-23-032 (Order 3919), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

388-15-615 COPES—Program restrictions. [Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-615, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.09.500. 92-18-041 (Order 3445), § 388-15-615, filed 8/27/92, effective 9/27/92.] Repealed by 95-20-041 (Order 3904), filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

388-15-820 Medicaid personal care services—Definitions. [Statutory Authority: RCW 74.08.090 and 74.09.520, OBRA '93 and c 21, Laws of 1994 amending RCW 74.09.520, Thurston Co. Superior Court Cause #93-2-1817-4. 94-21-042 (Order 3796), § 388-15-820, filed 10/12/94, effective 11/12/94. Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-820, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090. 91-21-026 (Order 3264), § 388-15-820, filed 10/8/91, effective 11/8/91; 90-06-038 (Order 2950), § 388-15-820, filed 3/1/90, effective 4/1/90; 89-18-029 (Order 2856), § 388-15-820, filed 8/29/89, effective 9/29/89.] Repealed by 95-23-032 (Order 3919), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

388-15-840 Medicaid personal care services—Assessment—Authorization. [Statutory Authority: RCW 74.08.090 and 74.09.520, OBRA '93 and c 21, Laws of 1994 amending RCW 74.09.520, Thurston Co. Superior Court Cause #93-2-1817-4. 94-21-042 (Order 3796), § 388-15-840, filed 10/12/94, effective 11/12/94. Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-840, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090. 91-21-026 (Order 3264), § 388-15-840, filed 10/8/91, effective 11/8/91; 89-18-029 (Order 2856), § 388-15-840, filed 8/29/89, effective 9/29/89.] Repealed by 95-23-032 (Order 3919), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

388-15-850 Medicaid personal care services—Nurse oversight. [Statutory Authority: RCW 74.08.090 and 74.09.520, OBRA '93 and c 21, Laws of 1994 amending RCW 74.09.520, Thurston Co. Superior Court Cause #93-2-1817-4. 94-21-042 (Order 3796), § 388-15-850, filed 10/12/94, effective 11/12/94. Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-850, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090. 91-21-026 (Order 3264), § 388-15-850, filed 10/8/91, effective 11/8/91; 89-18-029 (Order 2856), § 388-15-850, filed 8/29/89, effective 9/29/89.] Repealed by 95-20-041 (Order 3904), filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

388-15-860 Medicaid personal care services—Personal care aide qualifications. [Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-860, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090. 91-21-026 (Order 3264), § 388-15-860, filed 10/8/91, effective 11/8/91; 89-18-029 (Order 2856), § 388-15-860, filed 8/29/89, effective 9/29/89.] Repealed by 95-20-041 (Order 3904), filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

388-15-870 Medicaid personal care services—Service provision system. [Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-870, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090. 91-21-026 (Order 3264), § 388-15-870, filed 10/8/91, effective 11/8/91; 90-06-038 (Order 2950), § 388-15-870, filed 3/1/90, effective 4/1/90; 89-18-029 (Order 2856), § 388-15-870, filed 8/29/89, effective 9/29/89.] Repealed by 95-20-041 (Order 3904), filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18.

WAC 388-15-192 Long-term care services—Estate recovery procedures. The department shall determine all payments made for the client's state funded long-term care services after July 1, 1995, without regard to a client's age, are recoverable as if the payments were medical assistance payments subject to recovery under 42 U.S.C. Sec. 1396p and chapter 43.20B RCW. Estate recovery is described under chapter 388-527 WAC.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-192, filed 9/28/95, effective 10/29/95.]

WAC 388-15-194 Home and community services—Nurse oversight. (1) A registered nurse shall visit a community options program entry system client and a Medicaid personal care client one time per year or more often to:

(a) Review the personal care task delivery portion of the client's service plan;

(b) Evaluate the effectiveness of the personal care task delivery portion of the client's service plan.

(2) The department or its designee may authorize a registered nurse's oversight visit more frequently than once a year when the client appears to:

(a) Be at high risk; or

(b) Have an unstable condition; or

(c) Have a provider who requires training.

(3) The registered nurse shall document the result of the nurse's oversight visit on the department-prescribed form.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-194, filed 9/28/95, effective 10/29/95.]

WAC 388-15-196 Home and community services—Minimum qualifications for care providers in home and community settings. To protect the health and welfare of a long-term care service client receiving home and community services, the client's department-paid care provider shall:

(1) Be eighteen years of age or older;

(2) Complete and submit a criminal history background inquiry form prescribed by the department;

(3) Possess the following minimum standards of knowledge and experience:

(a) General knowledge of acceptable standards of performance, including the necessity to perform dependably, report punctually, maintain flexibility, and to demonstrate kindliness and caring to the client;

(b) Knowledge of when and how to contact the client's representative and the client's case manager.

(4) Have the following required skills:

(a) Adequate skills to read, either directly or through an interpreter, understand and implement the client's service plan;

(b) Adequate communication skills to convey and understand either directly or through an interpreter information required to implement the client's written service plan and verbal instructions;

(c) Adequate skills to maintain provider records of services performed and payments received.

(5) Be able to:

(a) Understand specific directions for providing the care which the individual client requires;

(b) Observe the client for change in health status, including weakness, confusion, and loss of appetite;

(c) Identify problem situations and take appropriate action;

(d) Respond to emergencies without direct supervision;

(e) Perform authorized housework functions competently;

(f) Perform authorized direct personal care functions competently;

(g) Accept the client's individual differences and preferences when performing routine tasks; and

(h) Work independently and perform responsibly within the boundaries of the nonmedical personal care task limits.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-196, filed 9/28/95, effective 10/29/95.]

WAC 388-15-202 Long-term care services—Definitions. The department shall use the definition in subsections (1) through (50) of this section for long-term care services. "Long-term care services" means the services administered directly or through contract by the aging and adult services administration of the department, including but not limited to nursing facility care and home and community services.

(1) "Aged person" means a person sixty-five years of age or older.

(2) "Agency provider" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to a client in the client's own home.

(3) "Application" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant shall submit the request on a form prescribed by the department.

(4) "Assessment" means an inventory and evaluation of abilities and needs.

(5) "Attendant care" means the chore personal care service provided to a grandfathered client needing full-time care due to the client's need for:

(a) Assistance with personal care; or

(b) Protective supervision due to confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume such as management of property and financial affairs.

(6) "Authorization" means an official approval of a departmental action, for example, a determination of client eligibility for service or payment for a client's long-term care services.

(7) "Available resources" is a term to describe a chore personal care client's assets accessible for use and conversion into money or its equivalent without significant depreciation in the property value.

(8) "Blind person" means a person determined blind as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

(9) "Categorically needy" means the financial status of a person as defined under WAC 388-503-0310.

(10) "Client" means an applicant for service or a person currently receiving services.

(11) "Community residence" means:

(a) The client's "own home" as defined in this section;

(b) Licensed adult family home under department contract;

(c) Licensed boarding home under department contract;

(d) Licensed children's foster home;

(e) Licensed group care facility, as defined in WAC 388-73-014(8); or

(f) Shared living arrangement as defined in this section.

(12) "Community spouse" means a person as described under WAC 388-513-1365 (1)(b).

(13) "Companionship" means the activity of a person in a client's own home to prevent the client's loneliness or to accompany the client outside the home for other than personal care services.

(14) "Contracted program" means services provided by a licensed and contracted home care agency or home health agency.

(15) "COPES" means community options program entry system.

(16) "Department" means the state department of social and health services.

(17) "Direct personal care services" means verbal or physical assistance with tasks involving direct client care which are directly related to the client's handicapping condition. Such assistance is limited to allowable help with the tasks of ambulation, bathing, body care, dressing, eating, personal hygiene, positioning, self-medication, toileting, transfer, as defined under WAC 388-15-202 (36)(a) through (e), (j) through (l), (n), and (o).

(18) "Disabled" means a person determined disabled as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

(19) "Estate recovery" means the department's activity in recouping funds after the client's death which were expended for long-term care services provided to the client during the client's lifetime per WAC 388-15-192.

(20) "Grandfathered client" means a chore personal care services client approved for either:

(a) Attendant care services provided under the chore personal care program when these services began before April 1, 1988; and

(b) Family care services provided under the chore personal care program when these services began before December 14, 1987; and

(c) The client was receiving the same services as of June 30, 1989.

(21) "Handicapping condition" means a condition which prevents a person from self-performance of personal care tasks without assistance.

(22) "Home health agency" means a licensed:

(a) Agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and reimbursed through the use of the client's medical identification card; or

(b) Home health agency, certified or not certified under Medicare, contracted and authorized to provide:

(i) Private duty nursing; or

(ii) Skilled nursing services under an approved Medicaid waiver program.

(23) "Household assistance" means assistance with incidental household tasks provided as an integral, but subordinate part of the personal care furnished directly to a client by and through the long-term care programs as described in this chapter. Household assistance is considered an integral part of personal care when such assistance is directly related to the client's medical or mental health condition, is reflected in the client's service plan, and is provided only when a client is assessed as needing personal care assistance with one or more direct personal care tasks. Household assistance tasks include travel to medical services, essential shopping, meal preparation, laundry, housework, and wood supply.

(24) "Income" means "income" as defined under WAC 388-500-0005.

(25) "Individual provider" means a person employed by a community options program entry system (COPES) or Medicaid personal care client when the person:

(a) Meets or exceeds the qualifications as defined under WAC 388-15-196;

(b) Has signed an agreement to provide personal care services to a client; and

(c) Has been authorized payment for the services provided in accordance with he client's service plan.

(26) "Individual provider program (IPP)" means a method of chore personal care service delivery where the client employs and supervises the chore personal care service provider.

(27) "Institution" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. "Institution" includes medical facilities, nursing facilities, and institutions for the mentally retarded, but does not include correctional institutions.

(28) "Institutional eligible client" means a person whose eligibility is determined under WAC 388-513-1315. "Institutionalized client" means the same as defined in WAC 388-513-1365(f).

(29) "Institutional spouse" means a person described under WAC 388-513-1365 (1)(e).

(30) "Medicaid" means the federal aid Title XIX program under which medical care is provided to:

(a) Categorically needy as defined under WAC 388-503-0310; and

(b) Medically needy as defined under WAC 388-503-0320.

(31) "Medical assistance" means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined under WAC 388-503-0310 and 388-503-1105.

(32) "Medical institution" means as institution defined under WAC 388-500-0005.

(33) "Medically necessary" and "medical necessity" mean the same as defined under WAC 388-500-0005.

(34) "Medically oriented tasks" means direct personal care services and household assistance provided as an integral but subordinate part of the personal care and supervision furnished directly to a client.

(35) "Mental health professional" means a person defined under WAC 275-57-020(25).

(36) "Own home" means the client's present or intended place of residence:

(a) In a building the client rents and the rental is not contingent upon the purchase of personal care services as defined in this section; or

(b) In a building the client owns; or

(c) In a relative's established residence; or

(d) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

(37) "Personal care aide" means a person meeting the department's qualification and training requirements and providing direct Medicaid personal care services to a client. The personal care aide may be an employee of a contracted agency provider or may be an individual provider employed by the Medicaid personal care client.

(38) "Personal care services" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks and household tasks, as listed in subdivisions (a) through (q) of this subsection. Such services may be provided for clients who are functionally unable to perform all or part of such tasks or who are incapable of performing the tasks without specific instructions. Personal care services do not include assistance with tasks performed by a licensed health professional.

(a) "Ambulation" means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of

walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing of the wheelchair, and providing constant or standby physical assistance to the client if totally unable to walk alone or with a mechanical device.

(b) "Bathing" means assisting a client to wash. Bathing includes supervising the client able to bathe when guided, assisting the client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(c) "Body care" means assisting the client with exercises, skin care including the application of nonprescribed ointments or lotions, or changing dry bandages or dressings when professional judgment is not required. Body care excludes foot care beyond washing of feet and filing toenails, foot care for clients who are diabetic or have poor circulation, or changing bandages or dressings when sterile procedures are required. Provision of body care tasks is limited. The client must be able to supervise the provision of these tasks.

(d) "Dressing" means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(e) "Eating" means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(f) "Essential shopping" means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health, maintenance, and well-being of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(g) "Housework" means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the home which are actually used by the client. This task is not a maid service and does not include yard care.

(h) "Laundry" means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(i) "Meal preparation" means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(j) "Personal hygiene" means assistance with care of hair, teeth, dentures, shaving, filing of nails, and other basic personal hygiene and grooming needs. Personal hygiene includes supervising the client when performing the tasks, assisting the client to care for the client's own appearance, and performing grooming tasks for the client when the client is unable to care for own appearance.

(k) "Positioning" means assisting the client to assume a desired position. Positioning includes assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits.

(l) "Self-medication" means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(m) "Supervision" means being available to:

(i) Help the client with personal care tasks that cannot be scheduled, including toileting, ambulation, transfer, positioning, some medication assistance; and

(ii) Provide protective supervision to a client who cannot be left alone because of impaired judgment.

(n) "Toileting" means assistance with bladder or bowel functions. Toileting includes guidance when the client is able to care for own toileting needs, helping client to and from the bathroom, assisting with bedpan routines, using incontinent briefs on client, and lifting client on and off the toilet. Toileting may include performing routine perineal care, colostomy care, or catheter care for the client when client is able to supervise the activities.

(o) "Transfer" means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(p) "Travel to medical services" means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(q) "Wood supply" means splitting, stacking, or carrying wood for the client when the client uses wood as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. The department shall not allow payment for a provider to use a chain saw or to fell trees.

(39) "Physician" means a doctor of medicine, osteopathy, or podiatry, as defined under WAC 388-500-0005.

(40) "Plan of care" means a "service plan" as described under WAC 388-15-205.

(41) "Property owned" means any real and personal property and other assets over which the client has any legal title or interest.

(42) "Provider" or "provider of service" means an institution, agency, or person:

(a) Having a signed department agreement to furnish long-term care client services; and

(b) Qualified and eligible to receive department payment.

(43) "Relative" means:

(a) For chore personal care service, a client's spouse, father, mother, son, or daughter;

(b) For Medicaid personal care service:

(i) "Legally responsible relative" means a spouse caring for a spouse or a biological, adoptive, or stepparent caring for a minor child.

(ii) "Nonresponsible relative" means a parent caring for an adult child and an adult child caring for a parent.

(44) "Service plan" means a plan for long-term care service delivery as described under WAC 388-15-205.

(45) "Shared living arrangement" for purposes of Medicaid personal care means an arrangement where two or more adults for purposes other than or in addition to the provision and receipt of care, reside together in one of the adult's residences with common facilities, such as living, cooking, and eating areas.

(46) "SSI-related" means a person who is aged, blind, or disabled.

(47) "Supervision" means a person available to a long-term care client as defined under WAC 388-15-202 (36)(m).

(48) "Supplemental Security Income (SSI)" means the federal program as described under WAC 388-500-0005.

(49) "Title XIX" is the portion of the federal Social Security Act which authorizes federal funding for medical assistance programs, e.g., nursing facility care, COPES, and Medicaid personal care home and community-based services.

(50) "Transfer of resources" means the same as defined under WAC 388-513-1365 (1)(g).

(51) "Unscheduled tasks" means ambulation, toileting, transfer, positioning, and unscheduled medication assistance as described in this chapter.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-202, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.09.520, 74.39.005, 74.08.043 and 74.08.545. 93-06-042 (Order 3501), § 388-15-202, filed 2/24/93, effective 3/27/93.]

WAC 388-15-203 Long-term care services—Assessment of task self-performance and determination of required assistance. (1) Purpose. The assessor as identified in subsection (2)(a) of this section shall:

(a) Identify client strengths to maximize current strengths and promote client independence;

(b) Evaluate physical health, functional and cognitive abilities, social resources and emotional and social functioning for service planning for long-term care;

(c) Identify client values and preferences for effective service planning based on the person's values and lifestyles; and

(d) Determine client's need for informal support, community support and services, and department paid services.

(2) Assessment responsibility.

(a) Department staff or designee while assessing need for case management shall perform the assessment.

(b) Except for adult protective service, the assessors shall perform a separate assessment for each client.

(c) The assessors shall document the assessment on a prescribed form.

(d) The assessors shall perform the assessment based on an in- person interview with the client.

(e) When administering the assessment, the assessors shall take into account the client's:

(i) Risk of and eligibility for nursing facility placement;

(ii) Health status, psychological/social/cognitive functioning, income and resources, and functional abilities;

(iii) Living situation; and

(iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

(3) The adult client's functional ability to self-perform each personal care task and household task shall be determined using the following definitions of the assistance required:

(a) Ambulation:

(i) Independent. The client is mobile, with or without an assistive device, both inside and outside the household without the assistance of another person.

(ii) Minimal. The client is mobile inside without assistance but needs the assistance of another person outside; or the client needs occasional assistance of another person inside, and usually needs assistance of another person outside.

(iii) Substantial. The client is only mobile with regular assistance of another person both inside and outside.

(iv) Total. The client is not mobile.

(b) Bathing:

(i) Independent. The client can bathe self.

(ii) Minimal. The client requires oversight help or reminding only. The client can bathe without assistance or supervision, but must be reminded some of the time; or the client cannot get into the tub alone and physical help is limited to stand-by assist only.

(iii) Substantial. The client requires physical help in a large part of the bathing activity, for example, to lather, wash, and/or rinse own body or hair.

(iv) Total. The client is dependent on others to provide a complete bath.

(c) Body care:

(i) Independent. The client can apply ointment, lotion, change bandages or dressings, and perform exercises without assistance.

(ii) Minimal. The client requires oversight help or reminding only, or requires occasional assistance.

(iii) Substantial. The client requires limited physical help to apply ointment, lotion, or to perform dry bandage or dressing change.

(iv) Total. The client is dependent on others to perform all required body care.

(d) Dressing:

(i) Independent. The client can dress and undress without assistance or supervision.

(ii) Minimal. The client can dress and undress, but may need to be reminded or supervised to do so on some days; the client can assist dressing and undressing, but frequently or most of the time needs some physical assistance.

(iii) Substantial. The client always needs assistance to do parts of dressing and undressing.

(iv) Total. The client is dependent on others to do all dressing and undressing.

(e) Eating:

(i) Independent. The client can feed self, chew and swallow solid foods without difficulty, or can feed self by stomach tube or catheter.

(ii) Minimal. The client:

(A) Can feed self, chew and swallow foods, but needs reminding to maintain adequate intake;

(B) May need food cut up;

(C) Can feed self only if food is brought to the client.

(iii) Substantial. The client:

(A) Can feed self but needs standby assistance for occasional gagging, choking, or swallowing difficulty; or

(B) Needs reminders/assistance with adaptive feeding equipment; or

(C) Must be fed some or all food by mouth by another person.

(iv) Total. The client must be totally fed by another person and/or frequently gags or chokes due to difficulty in swallowing; or the client must be fed by another person by stomach tube or by venous access.

(f) Essential shopping:

(i) Independent. The client can drive and is licensed or the client is capable of using public transportation.

(ii) Minimal. The client can use available transportation and does not need assistance with shopping, but needs instructions or physical assistance to get to or from transportation vehicle.

(iii) Substantial. The client is dependent on being accompanied or helped by others to access community shops and needs assistance with shopping.

(iv) Total. The client is totally dependent on others to do essential shopping.

(g) Housework:

(i) Independent. The client can perform essential housework.

(ii) Minimal. The client needs assistance or needs cuing or supervision in self-performance of essential housework one or two times per month in client use areas.

(iii) Substantial. The client needs weekly assistance of another with essential housework in client use areas.

(iv) Total. The client is dependent on others to do all housework in client use areas.

(h) Laundry:

(i) Independent. The client is capable of using available laundry facilities.

(ii) Minimal. The client is physically capable of using laundry facilities, but requires cuing and/or supervision.

(iii) Substantial. The client is not able to use laundry facilities without physical assistance.

(iv) Total. The client is dependent upon others to do all laundry.

(i) Meal preparation:

(i) Independent. The client can prepare and cook required meals.

(ii) Minimal. The client requires some instruction or physical assistance to prepare meals.

(iii) Substantial. The client can participate but needs substantial assistance to prepare meals.

(iv) Total. The client cannot prepare or participate in preparation of meals.

(j) Personal hygiene:

(i) Independent. The client can manage personal hygiene and grooming tasks on a regular basis.

(ii) Minimal. The client can manage their personal hygiene and grooming but must be reminded or supervised at least some of the time; the client regularly requires some limited assistance with both personal hygiene and grooming.

(iii) Substantial. The client regularly requires assistance with personal hygiene and grooming and cooperates in the process.

(iv) Total. The client is dependent on others to provide all personal hygiene and grooming.

(k) Positioning:

(i) Independent. The client can move to and from a lying position, position their body in bed, and get into and out of bed and chairs.

(ii) Minimal. The client can move to and from a lying position, turn from side to side, and position their body while in bed and chairs but requires assistance some of the time.

(iii) Substantial. The client needs occasional assistance to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(iv) Total. The client needs assistance most or all of the time to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(l) Self-medication:

(i) Independent. The client can take own medications or does not take medication.

(ii) Minimal. The client is physically able to take medications but requires another person to:

(A) Remind, monitor, or observe the taking of medications less than daily; or

(B) Open a container, lay out, or organize medications less than daily.

(iii) Substantial. The client can physically take medications, but requires another person to either remind, monitor, or observe the taking of medications daily; or the client can physically take medications if another person daily opens containers, lays out, organizes medications.

(iv) Total. The client cannot physically take medications and requires another person to assist and administer all medications.

(m) Toileting:

(i) Independent. The client can use the toilet without physical assistance or supervision; or the client can manage own closed drainage system if the system has a catheter or sheath; or the client uses and manages protective aids. The client may need grab bars or raised toilet seat.

(ii) Minimal. The client needs stand-by assistance for safety or encouragement. The client may need minimal physical assistance with parts of the task, such as clothing adjustment, washing hands, wiping, and cleansing. The client may need a protective garment and may or may not be aware of this need.

(iii) Substantial. The client cannot get to the toilet without assistance; or the client needs substantial physical assistance with part of the task; or the client needs someone else to manage care of a closed drainage system if it has a catheter or sheath. The client may or may not be aware of own needs.

(iv) Total. The client is physically unable to use toilet. Requires continual observation and total cleansing. The client may require protective garments or padding or linen changes. The client may or may not be aware of own needs.

(n) Transfer:

(i) Independent. The client can transfer without physical assistance.

(ii) Minimal. The client transfers without assistance most of the time, but needs assistance on occasion.

(iii) Substantial. The client can assist with own transfers, but frequently or most of the time needs assistance.

(iv) Total. The client transfers must be done by someone else.

(o) Travel to medical services:

(i) Independent. The client can drive and is licensed; or is capable of using available public transportation.

(ii) Minimal. The client cannot drive or can drive but should not; or public transportation is not available.

(iii) Substantial. The client requires physical assistance or supervision to both get into and out of a vehicle, but can use the transportation without assistance during the trip.

(iv) Total. The client is totally dependent on being accompanied or helped by others during the trip.

(p) Wood supply:

(i) Independent. The client does not rely on wood as the sole fuel source or is capable of splitting, stacking, or carrying wood for heating or cooking.

(ii) Minimal. The client can carry wood but needs occasional assistance with splitting or stacking wood.

(iii) Substantial. The client is not able to carry, split, or stack wood, but is able to use the wood supply once it is inside the residence.

(iv) Total. The client is dependent on another person to establish and maintain heat for cooking or residential heating.

(4) Scoring of functional abilities and supports.

(a) For each direct personal care service and household assistance task listed on the assessment form, the assessor shall determine:

(i) The client's ability to perform each activity;

(ii) Assistance available to the client through alternative resources, including families, friends, neighbors, community programs, and unpaid caregivers; and

(iii) Assistance needed from department programs after alternative resources have been taken into account.

(b) The assessor shall award points for each task based on the level of unmet need. The number of points allowable for each task are listed below under columns identified as 0=none, M=minimal, S=substantial, and T=total:

TASK	0	M	S	T
Eating				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15
Toileting	0	5	10	15
Ambulation	0	4	7	10
Transfer	0	1	3	5
Positioning	0	1	3	5
Body care	0	5	10	15
Personal hygiene	0	1	3	5
Dressing	0	4	7	10
Bathing	0	4	7	10
Self-medication	0	2	4	6
Travel to medical services	0	1	2	3
Essential shopping				
With client or	0	5	10	15
For client	0	1	3	5
Meal preparation				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15
Laundry				
Facilities in home or	0	1	2	3
Facilities out of home	0	3	5	7
Housework	0	1	2	3
Wood supply	0	3	5	7

(c) The assessor shall add together the points awarded for each task to obtain the total score for the applicant or client.

(5) Hour computation. The assessor shall:

(a) Convert the total score into maximum hours per month which may be authorized using the scoring conversion chart.

Scoring Conversion Chart

MAXIMUM Score	Hours	MAXIMUM Score	Hours	MAXIMUM Score	Hours
1 - 4	5	60 - 64	44	120 - 124	83
5 - 9	8	65 - 69	47	125 - 129	87
10 - 14	11	70 - 74	51	130 - 134	90
15 - 19	14	75 - 79	54	135 - 139	93
20 - 24	18	80 - 84	57	140 - 144	97
25 - 29	21	85 - 89	60	145 - 149	100
30 - 34	24	90 - 94	64	150 - 154	103
35 - 39	28	95 - 99	67	155 - 159	106
40 - 44	31	100 - 104	70	160 - 164	110
45 - 49	34	105 - 109	74	165 - 169	113
50 - 54	37	110 - 114	77	170 and	
55 - 59	41	115 - 119	80	Above	116

(b) Recognize conversion hours show client need, and may not reflect department-paid hours as determined by program standards.

(6) The assessor shall determine the client's additional hours of supervision needed:

(a) Due to impaired judgment; and

(b) For standby assistance necessary for unscheduled tasks defined under WAC 388-15-202(50); and

(c) Recognize supervision hours show client need, and may not reflect department paid hours as determined by program standards.

(7) Department staff or the department's designee shall authorize services to correspond with the client's assessed need according to eligibility criteria for aging and adult services administration programs or the eligibility criteria for the division authorizing the service. The department or the department's designee shall notify the client of the right to contest a denial or reduction of services.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-203, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.09.520, 74.39.005, 74.08.043 and 74.08.545. 93-06-042 (Order 3501), § 388-15-203, filed 2/24/93, effective 3/27/93.]

WAC 388-15-204 Home and community services—Reassessment. (1) The assessor shall perform an interim reassessment or full reassessment of the client's strengths, physical health, functional and cognitive abilities, social resources, emotional and social functioning, preferences, need for informal and community support and services, and need for department paid services:

(a) As required by the program standards in which the client has been authorized services; and

(b) When deemed necessary because of a change in the client's condition or situation.

(2) The department or the department's designee shall continue, deny, or alter services to correspond with the client's present need. The department shall notify the client of the right to contest a denial or reduction of services.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-204, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.09.520, 74.39.005, 74.08.043 and 74.08.545. 93-06-042 (Order 3501), § 388-15-204, filed 2/24/93, effective 3/27/93.]

WAC 388-15-205 Long-term care services—Service plan development. (1) The department or its designee shall develop a service plan with the client which identifies ways to meet the client's needs with the most appropriate services, both formal and informal.

(2) Staff who develop the service plan shall document the:

(a) Client's specific problems and needs;

(b) Plan for meeting each need;

(c) Responsible parties for carrying out each part of the plan;

(d) Anticipated outcomes;

(e) Dates and changes to the plan;

(f) Dates of referral, service initiation, follow-up reviews; and

(g) Agreement to the service plan by the client or the client's representative.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-205, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.09.520, 74.39.005, 74.08.043 and 74.08.545. 93-06-042 (Order 3501), § 388-15-205, filed 2/24/93, effective 3/27/93.]

WAC 388-15-206 Volunteer chore services. The department shall refer an applicant for chore personal care services to the volunteer chore service program when the applicant:

(1) Does not meet the eligibility criteria for chore personal care services;

(2) Is eligible for five hours or less per month of chore personal care services; or

(3) Needs help with household tasks only or tasks that are not available in the chore personal care services program, or both.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-206, filed 9/28/95, effective 10/29/95.]

WAC 388-15-207 Chore personal care services for adults—Legal basis—Purpose—Goals. (1) The department shall follow the legal basis for the chore personal care program as described under RCW 74.08.530 through 74.08.570.

(2) The department shall assist an eligible applicant at risk of being placed in a long-term care facility by providing allowable chore personal care tasks that may allow the eligible applicant to remain in or return to the eligible applicant's own residence.

(3) The department may provide chore personal care services through the contracted program or the individual provider program.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-207, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-207, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-207, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-207, filed 8/29/89, effective 9/29/89; 88-17-064 (Order 2674), § 388-15-207, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-207, filed 3/2/88; 81-18-045 (Order 1697), § 388-15-207, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-207, filed 3/4/81.]

WAC 388-15-208 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-209 Chore personal care services—Eligibility. A chore personal care eligible person shall:

(1) Be eighteen years of age and over;

(2) Be assessed under WAC 388-150-203 [388-15-203] through 388-15-205 and found at risk of placement in a long-term care facility as evidenced by:

(a) The need for assistance with one or more direct personal care tasks defined under WAC 388-15-202(16); and

(b) The lack of persons willing and able to provide unpaid assistance with the required personal care tasks.

(3) Not be eligible for Medicaid personal care or community options program entry system (COPES) services, and the person's needs cannot be met through Medicare home health or another program for which the person is eligible.

(4) Meet the following chore personal care service financial eligibility requirements:

(a) Have net household income as described in WAC 388-505-0590 (3) and (4) and WAC 388-511-1130 and 388-511-1140 not exceeding the sum of the cost of the client's chore personal care services and one hundred percent of the federal poverty level adjusted for family size; and

(b) Participate in the cost of chore personal care services as described under WAC 388-15-219; and

(c) Have financial resources as described under WAC 388-511-1150 and 388-511-1160 with a value not exceeding:

(i) Ten thousand dollars for a one-person family;

(ii) Fifteen thousand dollars for a two-person family;

(iii) A sum calculated by adding an additional one thousand dollars for each additional family member; and

(d) Has not transferred assets on or after July 1, 1995 for less than fair market value as described under WAC 388-513-1365.

(5) Be deemed to meet the financial eligibility requirements set forth in subsection (4) if the person is an adult protective service client at risk of placement in a long-term care facility; and the chore personal care services are:

(a) An integral but subordinate part of the adult protective services plan; and

(b) Provided only until the situation necessitating the service has stabilized; and

(c) Limited to a maximum of ninety days during any twelve-month period; and

(d) Provided without regard to the client's income or resources.

(6) Be reassessed at least every eighteen months or more often as deemed necessary, per WAC 388-15-204.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-209, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-209, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-08-011 (Order 3152), § 388-15-209, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-209, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-209, filed 8/29/89, effective 9/29/89; 88-17-064 (Order 2674), § 388-15-209, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-209, filed 3/2/88. Statutory Authority: ESHB 1221. 87-22-013 (Order 2550), § 388-15-209, filed 10/26/87. Statutory Authority: RCW 74.08.090. 86-12-040 (Order 2383), § 388-15-209, filed 5/30/86; 84-22-017 (Order 2165), § 388-15-209, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-209, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-209, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-209, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-209, filed 3/4/81.]

WAC 388-15-212 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-213 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-214 Chore personal care services—Budget control. (1) The department shall establish a monthly dollar lid on chore personal care service expenditures to maintain expenditures within the legislative appropriation.

(2) When expenditure projections reach the monthly dollar lid, the department shall place names of chore personal care services applicants on a waiting list in the order of applicant's risk of placement in a long-term care facility.

(3) The department shall give priority to people:

(a) Who were receiving chore personal care services as of June 30, 1995;

(b) For whom chore personal care services are necessary to return to the community from a nursing home;

(c) For whom chore personal care services are necessary to prevent unnecessary nursing home placement; and

(d) For whom chore personal care services are necessary as a protective measure based on referrals resulting from an adult protective services investigation.

(4) If the monthly dollar lid is not sufficient to stay within the legislative appropriation, the department may implement a ratable reduction of hours or payment for some or all chore personal care service clients.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-214, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.545. 94-10-025 (Order 3730), § 388-15-214, filed 4/27/94, effective 5/28/94. Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-214, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-214, filed 7/13/90, effective 8/13/90; 88-19-031 (Order 2693), § 388-15-214, filed 9/12/88; 88-06-088 (Order 2605), § 388-15-214, filed 3/2/88.]

WAC 388-15-215 Chore personal care services—Program limitations. (1) The department shall not authorize chore personal care services for:

(a) Teaching and companionship;

(b) Child care;

(c) Nursing care; or

(d) Developing social, behavioral, recreational, communication, or other types of skills.

(2) The department shall provide chore personal care services only in the client's own home except for essential shopping, travel to medical services, and laundry when there is not a laundry facility in the client's home.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-215, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-215, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-08-011 (Order 3152), § 388-15-215, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-215, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-215, filed 8/29/89, effective 9/29/89; 88-11-062 (Order 2625), § 388-15-215, filed 5/17/88; 85-22-021 (Order 2298), § 388-15-215, filed 10/30/85; 84-22-017 (Order 2165), § 388-15-215, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-215, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-215, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-215, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-215, filed 3/4/81; Order 1238, § 388-15-215, filed 8/31/77.]

WAC 388-15-216 Chore personal care services—Grandfathered clients. (1) Continuing eligibility for grandfathered attendant care for adults.

(a) The department may continue providing chore personal care services only to clients receiving attendant care before April 1, 1988, provided the clients were receiving the same services as of June 30, 1989.

(b) The department shall perform periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988:

(i) Attendant care service shall be authorized for clients receiving attendant care before April 1, 1988, who continue to need assistance with such unscheduled tasks as toileting, ambulation, and transfer or who need protective supervision;

(ii) Attendant care protective supervision shall be authorized for clients who may hurt themselves, others, or damage property if left alone, or are confused and may wander, or become easily disoriented;

(iii) The amount of service authorized shall be based on the total number of hours per day the chore personal care provider must be with the client. The chore personal care provider performs necessary household or personal care tasks during the authorized attendant care hours.

(c) The department shall pay a daily rate for attendant care for adults a sum not exceeding the department-established rate and:

(i) The department shall add up to five dollars per day for each additional client in the household; and

(ii) The department shall reduce the amount of the department's payment by the amount of the client's participation in the cost of the client's chore personal care services as described under WAC 388-15-219.

(d) The department shall not increase the payment in effect on June 30, 1989, except for a department-approved vendor rate increase; and

(e) The department shall not pay for services when the client is not in the home, for example, because of hospital-

ization. The department may provide payment for services up to seven days during the service month to enable the client to return home.

(2) Continuing eligibility for hourly family care services.

(a) Clients receiving hourly family care services before April 1, 1988, may continue to be eligible to receive services provided they were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and is:

(i) In the home but unable to physically care for the children; or

(ii) In the home and physically unable to perform the necessary household tasks; or

(iii) Temporarily out of the home, as defined by the department.

(c) The chore personal care provider may not act as a parent substitute or make major decisions affecting the children.

(d) For families to receive services, the department shall determine the total family income is at or below the department-established financial eligibility requirement. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.

(e) The department shall ensure the determination of need for hourly care takes into consideration the ages, numbers, and levels of responsibility of the children and presence of a spouse. Allowable family care activities include:

(i) Family housework. The need for additional help cleaning the residence because of the presence of children;

(ii) Family tasks. The child's need for travel to medical services, laundry services, meal preparation, essential shopping, bathing and dressing, or other allowable tasks;

(iii) Supervision of children. The need for physical supervision of the children when the client is:

(A) In the home, but unable to provide supervision; or

(B) Temporarily out of the home.

(f) The department shall award points for family care activities as follows:

(i) O = 0;

(ii) M = 14;

(iii) S = 27; and

(iv) T = 40.

The department shall enter the points awarded in the functional abilities and supports comments section of the assessment form and add to the client's total score.

(3) Board and room meal allowances. When providing board and room or meals for the chore personal care provider is an extra cost to the client, the department may authorize a payment to partially reimburse the client for this expense. The department shall:

(a) Not reimburse the costs for a spouse provider;

(b) Determine the payment does not exceed the department-established amount and will be prorated by days of service; and

(c) Not authorize a client payment for both a board and room allowance and a meal allowance.

(4) Ninety-day rule. Grandfathered clients terminated from chore personal care services because of transfer to another program may be reauthorized for chore personal care services when the:

(a) Transfer was in effect for less than ninety days; and

(b) Client becomes ineligible for the program the client is transferred to or the program the client is transferred to does not meet the client's needs.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-216, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-216, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-08-011 (Order 3152), § 388-15-216, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-216, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-216, filed 8/29/89, effective 9/29/89.]

WAC 388-15-217 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-219 Chore personal care service—Client participation. The department shall:

(1) Require a client to participate in the cost of chore personal care services as a necessary precondition to receiving chore personal care services paid for by the state.

(2) Calculate the participation in the cost of the client's services as follows:

(a) Allow the client and the client's at-home spouse to retain an amount equal to one hundred percent of the federal poverty level, adjusted for family size, as the home maintenance allowance.

(b) Exempt the following amounts from the client's and the client's at-home spouse's combined incomes:

(i) Any portion of a grant, scholarship, or fellowship used to pay tuition, fees, or other necessary educational institution;

(ii) Earned income tax credit;

(iii) Other income exemptions as described under WAC 388-513-1340; and

(iv) Employment expenses:

(A) Personal work expenses in the form of self-employment taxes (FICA) and income taxes are deductible when paid;

(B) Payroll deductions required by law or as a condition of employment in the amounts actually withheld;

(C) The necessary cost of transportation to and from the place of employment by the most economical means, except rental cars; and

(D) Expenses necessary for continued employment, such as tools, materials, union dues, transportation to service customers if not furnished by the employer, and uniforms and clothing needed on the job and not suitable for wear away from the job.

(v) Employed disabled incentive exemption as defined under WAC 388-15-222;

(vi) Unearned income deductions required by law in the amounts actually withheld;

(vii) Spousal income allocated and actually paid as participation in the cost of the spouse's community options program entry system (COPES) services; and

(viii) Amounts paid for:

(A) Medical expenses not subject to third-party payment; and

(B) Health insurance premiums, coinsurance, or deductible charges.

(3) Consider the remaining income as the client participation amount for chore services except for those persons whose participation is established under WAC 388-15-222.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-219, filed 9/28/95, effective 10/29/95.]

WAC 388-15-222 Chore personal care services—Employed disabled—Incentive income exemption. (1) The department shall exempt fifty percent of net earned income after work expenses above one hundred percent of the federal poverty level.

(2) The department shall only apply this exemption to:

(a) Clients determined disabled according to WAC 388-511-1105;

(b) The client, not the client's spouse or other household members.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-222, filed 9/28/95, effective 10/29/95.]

WAC 388-15-600 Community options program entry system (COPES)—Purpose—Legal basis. (1) The purpose of the community options program entry system (COPES) is to:

(a) Offer the choice of either institutional or home and community-based waiver services to a nursing facility eligible client;

(b) Divert an eligible client from imminent nursing facility placement; and

(c) Discharge an eligible nursing facility client to the client's own home or to a community-based residence.

(2) The department shall provide COPES services as an alternative to nursing facility care and administer the COPES Medicaid program as described under subsection 1915(c) of the Social Security Act, codified in the Code of Federal Regulations at 42 CFR 441.300 through 441.310, and approved by the secretary, department of health and human services.

(3) The department shall have the authority to limit the number of unduplicated COPES clients served monthly by each aging and adult field services regional office. The approved waiver does not require the department to provide waiver services:

(a) Throughout the state;

(b) Comparable in amount, duration, or scope; or

(c) To each person or target group who require nursing facility level of care.

(4) The department shall have the authority to purchase personal and special care as required under RCW 74.08.043 and 74.08.045. The department shall conduct demonstration programs and waive specific statutory requirements as required under RCW 74.08.390.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-600, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-600, filed 6/23/93, effective 7/24/93. Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-600, filed 11/18/87. Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-600, filed 5/14/86; 83-08-024 (Order 1954), § 388-15-600, filed 3/30/83.]

WAC 388-15-610 COPES—Eligibility. A COPES-eligible person shall:

(1) Be an aged, blind, or disabled client, as defined under WAC 388-511-1105 (1)(a), (b), and (c)(i) and (ii);

(2) Be eighteen years of age or older;

(3) Assessed as defined under WAC 388-15-202 through 388-15-205; and

(4) Have medical problems or cognitive impairment and be unable to maintain or coordinate the treatment plan; and

(5) Is likely to need the level of care provided in a nursing facility as defined under WAC 388-97-005(20) within the next thirty days, but for the provision of COPES payments for home or community-based waiver services as defined under WAC 388-15-620;

and

(6) Require substantial or total assistance with two or more of the following critical self-care tasks as defined under WAC 388-15-202(36) and 388-15-203(3):

(a) Eating;

(b) Toileting;

(c) Ambulation;

(d) Transfer;

(e) Body care;

(f) Bathing; or

(7) Have cognitive supervision needs and require substantial or total assistance with one or more of the critical self-care tasks in subsection (6)(a) through (f) of this section; or

(8) Require minimal, substantial or total assistance in three or more of the critical self-care tasks in subsection (6)(a) through (f) of this section; or

(9) Currently reside in a nursing facility, as defined under WAC 388-97-005(20), and be unable to return to and remain in the community without assistance with one or more of the services provided by the COPES program as defined under WAC 388-15-620;

(10) Have a feasible written plan of care. The department shall ensure the plan:

(a) Is sufficient to safeguard the client's health and safety and the plan's costs, including the department's published COPES maintenance allowance; and

(b) Is less than ninety percent of the average state-wide nursing facility rate; and

(11) Prefer to receive home or community-based waiver services as described in the department's plan of care, as an alternative to department placement in a nursing facility;

(12)(a) Not be financially eligible for Medicaid personal care services; or

(b) Be financially eligible for Medicaid personal care services; however, the department determines the Medicaid personal care services are not sufficient in amount, duration, or scope to meet the person's needs.

(13) Have gross monthly income not exceeding three hundred percent of the Supplemental Security Income (SSI) program, Title XVI federal grant excluding the supplementary state money payment (SSP) as described under WAC 388-500-0005;

(14) Have resources at or below the Medicaid standard as defined under WAC 388-513-1315 (1)(b) and (c) and 388-513-1350; and

(15) Meet the COPES waiver target group requirements as specified in the department's approved waiver request.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-610, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-610, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.09.500. 92-20-013 (Order 3460), § 388-15-610, filed 9/24/92, effective 10/25/92. Statutory Authority: RCW 74.08.090. 90-15-019 (Order 3039), § 388-15-610, filed 7/12/90, effective 8/12/90. Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-610, filed 11/18/87. Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-610, filed 5/14/86. Statutory Authority: RCW 74.08.044. 84-12-038 (Order 2101), § 388-15-610, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-08-024 (Order 1954), § 388-15-610, filed 3/30/83.]

WAC 388-15-615 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-620 COPES—Services. The department may authorize:

(1) One of the home and community-based services listed in subsection (2) through (4) of this section, and one or more of the home and community-based services listed in subsection (5) through (13) of this section when the department:

(a) Determines the service is necessary to prevent the client's institutionalization or enable an institutionalized client to return to the community; and

(b) Includes the service in the client's service plan.

(2) Congregate adult residential care as defined under WAC 388-15-560 through 388-15-568 and adult residential care/assisted living as defined under WAC 388-15-900 through 388-15-955.

(3) Adult family home care as defined under WAC 388-15-551.

(4) Personal care service tasks as defined under WAC 388-15-202(36), which are performed in the client's own home.

(5) Environmental modifications when the minor physical adaptations to the client's own home:

(a) Are necessary to ensure the client's health, welfare, and safety; or

(b) Enable the client to function with greater independence in the home; and

(c) Are of direct medical or remedial benefit to the client; and

(d) Are in accord with applicable state or local building codes.

(6) Skilled nursing when the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration, or scope of Medicaid-reimbursed home health services as provided under WAC 388-86-045.

(7) Transportation service when the service:

(a) Provides the client access to community services and resources provided in accordance with a therapeutic goal in the client's plan of care; and

(b) Is not merely diversional in nature. The department shall ensure this service:

(i) Is in addition to the Medicaid brokered transportation to medical services; and

(ii) Does not replace the Medicaid brokered transportation in the client's plan of care.

(8) Personal emergency response system (PERS) when the service is necessary to enable a client to secure help in the event of an emergency and when the client:

(a) Lives alone, or is alone for significant parts of the day and has no regular care provider for extended periods of time; and

(b) Would otherwise require extensive department-paid routine supervision.

(9) Home health aide service tasks beyond the amount, duration, or scope of the Medicaid-reimbursed home health service provided under WAC 388-86-045. The department shall authorize this service in addition to those available under WAC 388-86-045. The aide may perform some incidental services, for example, meal preparation in conjunction with providing a health-related service. However, the client's need for an incidental service shall not be the sole purpose of the aide's visit. Health-related service tasks include assistance with ambulation and exercise, self-administered medications, and hands-on personal care.

(10) Adult day care or day health service provided in an adult day care or day health center when the client:

(a) Is ineligible for or is not receiving Medicaid state plan covered adult day health services sufficient in amount, duration or scope; and

(b) Is chronically ill or disabled, socially isolated and/or confused, or has mild to moderate dementia; and

(c) Requires adult day care or day health service including:

(i) Provision of personal care as defined under WAC 388-15-202(35);

(ii) Basic health monitoring with consultation from a registered nurse;

(iii) Therapeutic activities;

(iv) Supervision or protection for at least four hours a day but less than twenty-four hours a day in a group setting on a continuing, regularly scheduled basis;

(v) Provision of a meal, not replacing or substituting for a full day's nutritional regimen; and

(vi) Programming and activities designed to meet clients' physical, social, and emotional needs.

(11) Client training when the training need is identified in the comprehensive assessment as defined under WAC 388-15-203 (1) and (2); and, provided in accordance with a therapeutic goal in the client's service plan such as adjustment to a serious impairment, management of personal care needs, or development of skills to deal with care providers.

(12) Night support service when overnight assistance, supervision, and monitoring is required for a client:

(a) Unable to be alone at night due to the client's substantial care needs; or

(b) Whose physical or cognitive impairments result in sleep care needs that do not allow the primary care provider to sleep eight hours and receive at least five undisturbed hours of sleep during the eight-hour period; and

(c) Who has no family or other household members who can provide this service.

(13) Home delivered meals when:

(a) The client:

(i) Is homebound;

(ii) Is unable to prepare the meal; and

(iii) Has no other paid or unpaid person available to prepare the meal.

(b) Provision of one meal per day is more cost effective than having a department-paid personal care provider prepare the meal in the client's own home.

(14) The department may not authorize sterile procedures and administration of medications as COPES-paid personal care tasks, unless the provider is a licensed health practitioner or a member of the client's immediate family.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-620, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-620, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090. 90-15-019 (Order 3039), § 388-15-620, filed 7/12/90, effective 8/12/90. Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-620, filed 11/18/87. Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-620, filed 5/14/86; 85-18-067 (Order 2281), § 388-15-620, filed 9/4/85. Statutory Authority: RCW 74.08.044. 84-12-038 (Order 2101), § 388-15-620, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-08-024 (Order 1954), § 388-15-620, filed 3/30/83.]

WAC 388-15-630 COPES—Payment procedures. The department shall:

(1) Allocate all nonexempt income of a person eligible for and receiving COPES services as described under WAC 388-515-1505;

(2) Pay for COPES services provided in accordance with a client's approved plan of care, a sum not to exceed the COPES rates set forth in the most recent schedule of department-established and published rates.

(3) Pay adult residential care and adult residential care/assisted living facilities licensed under chapter 18.20 RCW, and chapters 212-36 and 246-316 WAC for nonmedical residential care.

(4) Pay contracted adult family homes licensed under chapters 70.128 RCW and 388-76 WAC for nonmedical residential care.

(5) Pay an unrelated person providing board, room, and care to a COPES-eligible client in the unrelated person's own home only:

(a) When the person is licensed and contacted as an adult family home provider as described under subsection (4) of this section; and

(b) At the adult family home rate.

(6) Pay for personal care services provided in the client's own home by home-care agencies licensed under chapters 70.127 RCW and 248-36 WAC or by home-health agencies licensed under chapters 70.126 RCW and 246-327 WAC.

(7) Pay an individual personal care provider employed by the client in the client's own home when the individual provider:

(a) Meets or surpasses the department's minimum qualifications of knowledge and experience, skills, and abilities for individual personal care providers as defined under WAC 388-15-196. Family members who provide personal care services shall meet the same standards as providers who are unrelated to the client;

(b) Has a department-approved individual personal care provider agreement and service payment authorization; and

(c) Has been interviewed, hired, and retained by a COPES-eligible client or the client's representative and has provided the authorized services defined under WAC 388-15-202 in accordance with the client's service plan in the client's own home.

(8) Not pay a COPES-eligible client's spouse for providing care to the client.

(9) Pay for a one-time minor physical adaptation to the client's own home as authorized and approved by the department when the work is done by:

(a) A contractor registered with the department of labor and industries under chapter 18.27 RCW; or

(b) A contracted "handy-man" or an unpaid volunteer who have demonstrated skills and abilities to perform minor "do-it-yourself" jobs satisfactorily.

(10) Pay for skilled nursing provided by:

(a) A registered nurse licensed under chapters 18.88 RCW and 308-12 WAC; or

(b) A practical nurse licensed under chapters 18.78 RCW and 248-36 WAC who is under the supervision of a registered nurse; or

(c) A home health agency meeting the qualifications in subsection (6) of this section.

(11) Pay for transportation services when:

(a) The appropriate service mode has been pre-approved; and

(b) The service is provided by a vendor meeting the same standards required for the state plan covered medical transportation service program.

(12) Pay a contracted electronic communication equipment vendor and monitoring agency a one-time installation amount and a monthly service rate for personal emergency response system (PERS) service.

(13) Pay for home health aide service tasks performed by a nursing assistant certified and registered under chapter 18.88A RCW and provided to a client in the client's one home. The department shall authorize payment under COPES for home health aide service tasks only when state plan covered home health services are not sufficient in amount, duration, and scope to meet the client's unmet needs.

(14) Pay for adult day services provided in an adult day center certified as a Title XIX provider which provides services for a client who has mild or moderate dementia or is:

(a) Chronically ill or disabled;

(b) Socially isolated and confused;

(c) Unable/unsafe to be left alone during the day; and

(d) Needs assistance with personal care.

(15) Pay for client training provider by licensed and certified provider types with expertise in the area of the client's training need, for example, dieticians and nutritionists registered under chapter 18.138 RCW for nutrition evaluation and counseling.

(16) Pay an individual provider who meets the qualifications in subsection (7) of this section to provide night support services, including personal care and direct supervision, for a client in the client's own home for a period not to exceed ten hours per night. When possible, the client shall utilize family or other household members who can provide this service without charge. The department shall not pay members of the client's household for provision of night support services.

(17) Pay for one home-delivered meal per day per client. The department shall pay a Title III provider or pay a restaurant, cafeteria, or caterer when the client's needs cannot be met by a Title III provider due to the client's geographic inaccessibility or special dietary needs, the time of day or week the meal is needed, or the Title III provider's waiting lists. The department shall ensure the provider complies with Washington state department of health and local board of health regulations for food service establishments and the meal:

(a) Is nutritionally balanced and delivered to the client's home;

(b) Does not replace nor be a substitute for a full day's nutritional regimen but will provide at least one-third of the current recommended dietary allowance (RDA) as established by the Food and Nutrition Board of the National Academy of Sciences, National Research Council;

(c) As a unit of service equals one meal.

(18) Not make additional payments beyond the department-established and published COPES rates. The department rates shall include all services provided to a COPES-eligible client under applicable department contracts.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-630, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-630, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090. 90-15-019 (Order 3039), § 388-15-630, filed 7/12/90, effective 8/12/90. Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-630, filed 11/18/87. Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-630, filed 5/14/86; 85-18-067 (Order 2281), § 388-15-630, filed 9/4/85. Statutory Authority: RCW 74.08.044. 84-12-038 (Order 2101), § 388-15-630, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-08-024 (Order 1954), § 388-15-630, filed 3/30/83.]

WAC 388-15-820 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-830 Medicaid personal care services—Eligibility. (1) An eligible Medicaid personal care person shall be:

(a) Certified as a Title XIX categorically needy medical assistance client;

(b) Assessed as defined under WAC 388-15-202 through 388-15-205 and shall be determined to need personal care assistance with one or more direct Medicaid personal care tasks to remain in a community residence due to a handicapping condition as defined under WAC 388-15-202(2). In assessing the client with a handicapping condition, the department may require documentation from a physician or a mental health professional to determine the extent of the person's handicapping conditions; and

(c) Residing in the client's own residence, in a licensed and contracted adult family home, a licensed boarding home under department contract, a children's foster family home, or a children's group care facility.

(2) The department shall determine a person's eligibility for Medicaid personal care services begins upon the date of the department's service authorization.

(3) The department shall not authorize chore personal care services or adult family home add-on services to a person qualifying for Medicaid personal care services when the person's service needs are met within the scope of the Medicaid personal care program.

(4) For an applicant through seventeen years of age or until the applicant transfers out of DCFS foster care or group care, the DCFS or DDD assessor shall only assess the need for personal care services exceeding the level of age appropriate personal care and not already being provided for through the child's natural/unpaid support systems. The assessor shall use a comprehensive assessment form specific to children for children from birth through seventeen years of age or until the age of transfer out of DCFS foster care or group care.

(5) The client shall be reassessed at least annually or more often as deemed necessary as defined under WAC 388-15-204.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-830, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.08.090 and 74.09.520, OBRA '93 and c 21, Laws of 1994 amending RCW 74.09.520, Thurston Co. Superior Court Cause #93-2-1817-4. 94-21-042 (Order 3796), § 388-15-830, filed 10/12/94, effective 11/12/94. Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-830, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090. 89-18-029 (Order 2856), § 388-15-830, filed 8/29/89, effective 9/29/89.]

WAC 388-15-840 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-850 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-860 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-870 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-880 Medicaid personal care services—Payment procedures. The department shall:

(1) Pay for Medicaid personal care services provided in accordance with a client's approved plan of care, a sum not to exceed the Medicaid personal care rates as set forth in the most recent schedule of department-established and published rates.

(2) Pay contracted congregate care facilities licensed under chapter 18.20 RCW and chapters 246-316 and 212-36 WAC for authorized personal care services.

(3) Pay contracted adult family homes licensed under chapters 70.128 RCW and 388-76 WAC for authorized personal care services.

(4) Pay for personal care services provided to an adult by home care agencies licensed under chapters 70.127 RCW and 248-36 WAC or by home health agencies licensed under chapters 70.126 RCW and 246-327 WAC. The department shall:

(a) Make agency payments directly to the agency or through a factor.

(b) May authorize agency services when the adult client's service plan requires eighty-five or fewer hours personal care service per month.

(c) Ensure the contractor pays service providers performing Medicaid personal care services five dollars and fifteen cents or more per hour.

(5) Pay an individual personal care provider providing personal care when the provider:

(a) Meets or surpasses the department's minimum qualifications of knowledge and experience, skills, and abilities for individual personal care providers as defined under WAC 388-15-196. Family members who provide personal care services must meet the same standards as providers who are unrelated to the client;

(b) Has a department-approved individual personal care provider agreement and service payment authorization;

(c) Has been interviewed, hired, supervised, and retained by a client eligible for Medicaid personal care or the client's representative; and

(d) Has provided the authorized services defined under WAC 388-15-202 in accordance with the client's service plan.

(6) Pay for personal care services when authorized for a child and provided by:

(a) A foster parent or group care facility defined under WAC 388-73-014(8);

(b) An agency which meets the qualifications in subsection (4) of this section and is contracted by the division of children and family services or the division of developmental disabilities for services provided in:

(i) A foster or group home; or

(ii) The child's own home; or

(iii) The home of a child's relative under a relative placement.

(c) An individual provider who meets the qualifications in subsection (5) of this section without regard to the number of hours of service.

(7) Not pay a Medicaid personal care client's spouse nor pay a Medicaid personal care eligible child's parent or stepparent, when the child is seventeen years of age or younger, for providing care to the client.

(8) Not make payment for services provided exceeding the department's authorization.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-880, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-880, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090. 91-21-026 (Order 3264), § 388-15-880, filed 10/8/91, effective 11/8/91; 90-06-038 (Order 2950), § 388-15-880, filed 3/1/90, effective 4/1/90; 89-18-029 (Order 2856), § 388-15-880, filed 8/29/89, effective 9/29/89.]

WAC 388-15-890 Medicaid personal care services—Program limitations. (1) Because Medicaid services are specific to the eligible client and based on medical necessity, the department shall not authorize Medicaid personal care services for:

(a) Teaching, including teaching clients how to perform personal care tasks or other community living skills;

(b) Personal care services provided over the telephone;

(c) Services provided at a site other than the client's residence, unless authorized by the department in the written service plan;

(d) Developing social, behavioral, recreational, communication, or other types of skills;

(e) Companionship;

(f) Travel to medical services, essential shopping, meal preparation, housework, laundry, wood supply, or supervision as defined under WAC 388-15-202, unless the client is assessed as needing assistance with one or more direct personal care tasks as described in WAC 388-15-202(16), i.e., personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, or body care; or

(g) Assisting or supporting other household members not eligible for Medicaid personal care.

(2) The department shall adjust payment for services according to department established rates which take into account the provision of household tasks done at the same time for all of the household clients by a personal care provider, e.g., essential shopping, meal preparation, laundry, housework, wood supply, travel to medical services and supervision when:

(a) More than one client lives in the same household; and

(b) The client is in a shared living arrangement.

(3) The department shall not authorize meal preparation, wood supply, laundry, or housework as a Medicaid personal care task to clients who live in an adult family home, licensed boarding home, or childrens foster/group home.

(4) Personal care tasks do not include assistance requiring a licensed health professional.

[Statutory Authority: RCW 74.08.090, 74.09.520 and 1995 1st sp.s. c 18. 95-20-041 (Order 3904), § 388-15-890, filed 9/28/95, effective 10/29/95. Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-890, filed 4/28/93, effective 5/29/93.]

WAC 388-15-900 Authority. The following rules are adopted under chapter 74.39A RCW, Long-term care services options.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-900, filed 7/7/95, effective 8/7/95.]

WAC 388-15-905 Assisted living services. The rules in this chapter apply only to boarding homes licensed under chapter 18.20 RCW, or boarding homes located within the boundaries of a federally recognized Indian reservation and licensed by a tribe, that contract with the department to provide assisted living services to Medicaid-eligible residents.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-905, filed 7/7/95, effective 8/7/95.]

WAC 388-15-910 Definitions. The terms used in this chapter shall have the same meaning as those in chapters 18.20, 70.129, and 74.39A RCW, and chapter 246-316 WAC, except as stated below.

(1) "Aging in place" means the process by which a person chooses to remain in his or her living environment despite the physical or mental decline that may occur with the aging process. For aging in place to occur, needed services are added, increased, or adjusted to compensate for the physical, or mental decline of the person. Services added may not exceed those allowed under chapter 246-316 WAC.

(2) "Assisted living services" means a combination of housing, health services, and assistance with personal care provided by a licensed boarding home in accordance with

the assisted living services contract. The boarding home having an assisted living services contract shall design and provide services in response to each resident's individual needs and choices based on assisted living values.

(3) "Assisted living values" means providing services in a home-like setting which promotes the individual resident's privacy, dignity, choice, independence, individuality, and decision-making ability. Assisted living values promote the concept of "aging in place and managed risk."

(4) "Boarding home" as defined under RCW 18.20.020(2).

(5) "Contractor" means an individual, partnership, corporation or other entity which contracts with the department to provide assisted living services to Medicaid-eligible residents in a licensed boarding home.

(6) "Choice" means viable options created for a resident to enable the resident to exercise greater control over the resident's life.

(7) "Department" means the Washington state department of social and health services (DSHS).

(8) "Dignity" means providing support in such a way as to validate the self-worth of a resident. Dignity is supported by designing a structure which allows personal assistance to be provided in privacy, and the delivering of services in a manner which shows courtesy and respect for a resident's right to make a decision.

(9) "Home-like" means an environment which creates an atmosphere supportive of the resident's preferred lifestyle. Home-like is supported by encouraging the resident to use his or her own personal belongings.

(10) "Independence" means supporting the resident's capabilities and facilitating the use of the resident's abilities.

(11) "Individuality" means recognizing variability in a resident's individual needs and preferences, and having flexibility to organize services in response to these needs and preferences.

(12) "Managed risk" means balancing the resident's choice for independence against the safety of the resident and other persons in the facility. If the resident's decision or preference places the resident or others at risk or leads to adverse consequences, a formal plan is negotiated to decrease the probability of a poor outcome.

(13) "Negotiated service agreement" means a written plan of services developed with the resident to the maximum extent possible, and the family or surrogate decision maker, if applicable. The agreement includes recognition of the resident's capabilities and choices. The plan defines the division of responsibility in the implementation of the services and specifies measurable goals.

(14) "New facility" means a new building, or addition to a licensed boarding home, or change in use of an existing building to a licensed boarding home, for which plans were submitted for construction review under WAC 246-316-070 after the effective date of this chapter.

(15) "Privacy" means a specific area and/or time over which the resident maintains a large degree of control. Privacy is supported by designing living space which is not shared, except by personal choice, with others.

(16) "Services" means activities which help a resident develop appropriate skills to increase or maintain his or her level of most independent psycho-social and physical functioning, or assist the resident in activities of daily living.

(17) "Unit" means a resident living area that is a private apartment space, including living and sleeping space, kitchen area, bathroom, and storage areas.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-910, filed 7/7/95, effective 8/7/95.]

WAC 388-15-915 Facility structural requirements. (1) A boarding home with an assisted living services contract shall provide each resident with an individual unit that consists of at least the following:

(a) In an existing facility, an individual unit with a minimum of one hundred eighty square feet, excluding the bathroom. In a new facility, an individual unit with a minimum of two hundred twenty square feet, excluding the bathroom;

(b) A separate bathroom, including a sink, a shower or bathtub, and a toilet;

(c) A locking entry door;

(d) A kitchen area, equipped at a minimum with a microwave oven, stove-top or other cooking appliance, and a refrigerator; and

(e) A living area wired for telephone and, where available in the geographic location, wired for television service.

(2) The contractor shall provide a private accessible mailbox that meets postal standards in which a resident may send or receive mail.

(3) A contractor may request an exception to subsections (1)(c), (d), (e), and (2) of this section for a facility constructed before the adoption of these regulations. Any such request shall be submitted in writing to the director for residential care services, aging and adult services administration. In the request, the contractor shall:

(a) Explain the need for the exception;

(b) Assure the exception will not adversely affect any resident's health and safety; and

(c) Demonstrate that granting the exception will be consistent with applicable local codes.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-915, filed 7/7/95, effective 8/7/95.]

WAC 388-15-920 Service requirements. (1) The contractor shall provide a resident services in a manner which promotes:

(a) Assisted living values;

(b) An environment that allows residents to age in place; and

(c) Compliance with resident rights as set forth under chapter 70.129 RCW.

(2) In addition to the individual resident's plan completed before or upon move-in, the contractor shall complete a negotiated service agreement, based on the resident's needs and choices within thirty days of move-in. The contractor shall include the following persons in the development of the negotiated service agreement:

(a) The resident, to the maximum extent possible, and the family or surrogate decision maker, if applicable;

(b) Facility staff;

(c) The department's case manager; and

(d) If the resident chooses, the resident's family or support system.

(3) The negotiated service agreement shall address, at a minimum, the following elements:

(a) Assessed needs and preferences, personal care tasks, limited nursing services, and medication services, including frequency of service and level of assistance;

(b) Resident's and department case manager's signature and approval of the agreement; and

(c) Date the agreement was approved, and the date the agreement will be reviewed.

(4) The contractor shall provide the resident a copy of the agreement, and place a copy in the resident's record.

(5) The contractor, the resident to the maximum extent possible, and the family or the resident's surrogate decision maker if applicable, and the department's case manager shall regularly review and evaluate the resident's service needs, which shall not exceed those services allowed under chapter 246-316 WAC. The agreement shall be updated when there are changes in the services the resident needs and agrees to receive. At a minimum, the negotiated service agreement shall be renegotiated annually.

(6) The contractor shall provide sufficient staff to meet the limited nursing service needs of a resident who requires daily nursing services. The contractor shall provide or arrange for the provision of limited nursing services according to WAC 246-316-265.

(7) The contractor shall allow the resident to obtain additional health care services, as provided under WAC 246-316-268.

(8) The contractor shall provide personal care services in accordance with chapter 246-316 WAC, based on the resident's negotiated service agreement as described in WAC 388-15-820 (4) and (6) and further defined in WAC 388-15-202.

(9) The contractor shall provide service coordination for residents and monitor the services provided. Service coordination includes providing services or arranging for community-based services.

(10) The contractor shall encourage:

(a) Residents and the resident council to participate in the development of a recreation and activity program that reflects the needs and choices of the residents;

(b) The resident council to participate in providing input to the facility about residents' preferences for food choices. The contractor shall ensure the menu preparation reflects nutritional recommended daily allowance (RDA) in accordance with WAC 246-316-170 and choices of the residents.

(11) The contractor shall retain a unit for a resident hospitalized or temporarily placed in a nursing home for up to thirty days who is likely to return. If notified prior to thirty days by the attending medical personnel that the resident will not be able to return to the residence, the facility may discharge the resident.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-920, filed 7/7/95, effective 8/7/95.]

WAC 388-15-925 External or additional services coordinated by the contractor. The contractor shall coordinate and monitor services not covered by the assisted living services contract as needed to assist residents to maintain as much independence as possible. This does not include services listed under WAC 248-316-268.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-925, filed 7/7/95, effective 8/7/95.]

WAC 388-15-935 Contract application process. (1) In order to provide assisted living services, an applicant shall:

(a) Complete and submit a contract application on department provided forms at least sixty days before the contract's requested effective date;

(b) Have a valid boarding home license for the facility at which the assisted living services will be provided before the department approves the contract;

(c) Include information regarding any facilities the applicant and any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been affiliated with in the past ten years;

(d) When the applicant is a partnership, provide the requested information for each individual partner for the ten years preceding the date the application is submitted; and

(e) When the applicant is a corporation, provide the requested information for each individual with a five percent or greater interest in the corporation for the ten years preceding the application date.

(2) Within sixty days of receipt of the application the department shall approve or deny the application, or request additional information from the applicant. The department shall conduct an on-site review of the contracting facility before issuing a contract. The department may extend the sixty days to allow the applicant to supply or clarify information requested by the department.

(3) The department shall disqualify a contract applicant when one of the following has occurred in the past ten years:

(a) The applicant, acting independently or in association with others, had a license for the care of children or adults revoked, suspended, or canceled.

(b) The applicant, acting independently or in association with others, has been enjoined from operating a facility, for the care of children or adults, permanently or temporarily.

(c) The applicant, acting independently or in association with others, had a facility for the care of children or adults decertified, and some or all of the residents were removed.

(d) The applicant, acting independently or in association with others, was assessed a criminal fine, jail term (whether suspended or not), or any other criminal penalty in connection with the operation of any facility for the care of children or adults.

(e) The applicant, acting independently or in association with others, was convicted of any felony or crime against a person or an offense, as outlined under RCW 43.43.830.

(4) When determining whether to approve an assisted living services contract application the department shall consider the following information relevant if it involves the care provided to children or adults. The department may deny an application for contract when one of the following circumstances has occurred:

(a) The applicant, acting independently or in association with others, has been adjudged liable for civil damages by a court, or settled such an action out of court based on alleged negligent conduct or intentional misconduct on an individual's part or in association with others;

(b) The applicant, acting independently or in association with others, has been a party to a Medicaid or Medicare

provider agreement, or a party to any other agreement with a public agency for the care or treatment of children or adults which was revoked, canceled, suspended, or not renewed (whether in part or in whole, temporarily or permanently) by such agency;

(c) The applicant, acting independently or in association with others, had sanction or corrective action taken by federal, state, county, or municipal health or safety officials;

(d) The applicant, acting independently or in association with others, filed for bankruptcy, reorganization, or receivership based on failure or inability to meet financial obligations in the regular course of business or has individually or in association with others, ever had a judgment obtained against the individual by a creditor;

(e) The applicant, acting independently or in association with others, was denied a license or license renewal to operate a facility that was licensed for the care of children or adults;

(f) The applicant, acting independently or in association with others had a stop-placement or stop-payment instituted in a facility for the care of children or adults;

(g) The applicant, acting independently or in association with others, was assessed a civil fine;

(h) The applicant, acting independently or in association with others, had resident trust funds or assets of an entity providing care to children or adults seized by the IRS or a state entity for failure to pay income taxes or payroll taxes; or

(i) The applicant, acting independently or in association with others, failed to properly maintain resident trust funds in accordance with accepted accounting practices and chapter 70.129 RCW.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-935, filed 7/7/95, effective 8/7/95.]

WAC 388-15-940 Change of parties to the contract. (1) A change of contractor occurs when there is a substitution of the individual contractor or contracting entity ultimately responsible for the daily operational decisions of the assisted living service; or a substitution of control of such contracting entity.

(a) Events which constitute a change of contractor include but are not limited to the following:

(i) The form of legal organization of the operator is changed (e.g., a sole proprietor forms a partnership or corporation);

(ii) Assisted living services contracts rights and responsibilities are transferred by the initial contractor to another party regardless of whether ownership of some or all of the real property and/or personal property assets of the facility is also transferred;

(iii) If the contractor is a partnership, any event occurs which dissolves the partnership;

(iv) If the contractor is a corporation, and the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation;

(v) If the contractor is a corporation and, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock is transferred to one or more:

(A) New or former stockholders; or

(B) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(vi) Any other event or combination of events which results in a substitution or substitution of control of the individual contractor or the contracting entity.

(b) The contractor does not change when the following, without more, occur:

(i) A party contracts with the contractor to manage the assisted living enterprise as the operator's agent, i.e., subject to the operator's general approval of daily operating and management decisions; or

(ii) The real property or personal property assets of the assisted living services contractor change ownership or are leased, or a lease of the real property or personal property assets is terminated, without a substitution of individual operator or operating entity and without a substitution of control of the operating entity.

(2) When a change of contractor is contemplated, the current contractor shall notify the department and all residents at least sixty days prior to the proposed date of transfer. The notice shall be in writing and shall contain the following information:

(a) Name of the present contractor and prospective contractor;

(b) Name and address of the assisted living services contract being transferred; and

(c) Date of proposed transfer.

(3) The operation or ownership of an assisted living services contract shall not be transferred until the new operator has entered into an assisted living services contract with the department. The new contractor shall comply with contract application requirements.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-940, filed 7/7/95, effective 8/7/95.]

WAC 388-15-945 Client eligibility. The contractor shall provide assisted living services to a person eligible for COPES services under WAC 388-15-202 through 388-15-205 and WAC 388-15-600 through 388-15-615 as determined by the department's case manager, and in compliance with chapter 246-316 WAC.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-945, filed 7/7/95, effective 8/7/95.]

WAC 388-15-950 Relocation criteria. The contractor shall include the department's case manager in the development of any plan to relocate or discharge a resident. Relocation criteria are set forth in boarding home regulations under chapter 246-316 WAC, and long-term care resident rights under chapter 70.129 RCW.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-950, filed 7/7/95, effective 8/7/95.]

WAC 388-15-955 Assisted living services contract payment procedures. (1) The resident shall pay nonexempt income directly to the facility. The department shall pay the remainder of the costs after deducting the resident's share in the cost of care, and allocate all nonexempt income of a person receiving COPES assisted living services according to procedures under WAC 388-515-1505.

(2) The department shall pay for COPES assisted living services provided in accordance with the resident's approved negotiated service agreement, a sum including the resident's cost share, not to exceed the COPES assisted living rates set forth in the most recent schedule of department-established and published rates.

(3) The department shall pay to hold a resident's unit, held for the resident during a hospital or nursing facility stay not to exceed thirty days, at a unit hold rate set by the department.

[Statutory Authority: RCW 74.39A.010. 95-15-011 (Order 3864), § 388-15-955, filed 7/7/95, effective 8/7/95.]

Chapter 388-43 WAC
DEAF AND HARD OF HEARING SERVICES

WAC

WAC 388-43-010 Eligibility requirements. (1) An eligible applicant shall:

(a) Be hearing or speech disabled or deaf-blind; and

(b) Be a resident of Washington state; and

(c) Be at least school age as defined under WAC 388-43-005(15); or

(d) Be the parent/guardian applying on behalf of a child four years of age or younger who has been certified in writing, as specified under subsection (2)(a) through (f) of this section; and

(e) Meet total annual family income and family size requirements as set forth under section 020 of this chapter.

(2) An eligible applicant shall be certified in writing as hearing disabled, speech disabled, or deaf-blind by one of the following:

(a) A person licensed to practice medicine in the state of Washington;

(b) An audiologist in Washington as specified under WAC 388-43-005;

(c) A vocational rehabilitation counselor in a local division of vocational rehabilitation office;

(d) A deaf specialist or coordinator at one of the community service centers for the deaf and hard of hearing in the state;

(e) A deaf-blind specialist or coordinator at Helen Keller regional office, Washington deaf-blind service center, or an eye specialist; or

(f) A certified speech pathologist practicing in the state of Washington.

(3) TAS may require additional documentation to determine if the applicant meets the eligibility requirements under sections 010 and 020 of this chapter.

(4) At the time an applicant applies for equipment, the applicant shall provide the department information on family income and family size.

(5) At the time an applicant applies for equipment, the department shall notify the applicant of the legal consequences if the applicant provides false information.

(6) The department shall ensure an eligible organization meets the following criteria:

(a) The organization must provide a copy of the certificate of incorporation as a nonprofit organization and its bylaws, to indicate that the intent of the organization is to represent the hearing or speech disabled or deaf-blind persons statewide;

(b) The organization must have represented hearing or speech disabled or deaf-blind persons statewide in the last three years; and

(c) The organization must have a telephone number which is either listed or available through statewide publicity for the hearing disabled.

[Statutory Authority: RCW 43.20A.725 and 43.20A.730. 95-03-049 (Order 3825), § 388-43-010, filed 1/11/95, effective 2/11/95. Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-010, filed 12/30/93, effective 1/30/94.]

WAC 388-43-020 Approval of application for initial device or request for replacement device. (1) An applicant shall fill out:

(a) An application form; and

(b) A declaration of income statement.

(2) If the department determines an applicant is eligible, TAS shall approve the application except as provided under WAC 388-43-030 (1)(a) or (b).

(3) An eligible applicant's reported total family income and family size described under this subsection shall determine the applicant's level of financial responsibility in obtaining the equipment:

(a) The department shall determine client participation by a sliding scale based on zero percent to two hundred percent of the most recent federal poverty level; and

(b) The department shall ensure the sliding scale is adjusted yearly following the new federal poverty level publication.

(4) A recipient of equipment shall own the equipment, with the exception of a telebraille and tactile signalling device, if the department distributed the equipment before May 15, 1993. When a telecommunications device distributed before May 15, 1993 breaks after warranty has expired, the recipient shall renew the equipment application as an original application as described under this chapter.

(5) The department shall provide an eligible recipient initial or replacement equipment based on the availability of equipment and/or funds.

(6)(a) "DEC" means a deductible employee contribution;

(b) "Dependent" means a relative who depends on the family income for at least half of the relative's support;

(c) "Family size" means a person or a person and the person's spouse, if not legally separated, and the person's dependents;

(d) "S corporation" means a domestic corporation with one class of stock having thirty-five or less shareholders who are United States citizens;

(e) "SEP" means a simplified employee pension.

(7) Income includes, but is not limited to:

(a) Earned income, such as wages and tips;

(b) Unearned income, such as interest, dividends, and pensions;

(c) Family's share of income from S corporations, partnerships, estates, and trusts;

(d) Gains from the sale or exchange (including barter) of real estate, securities, coins, gold, silver, gems, or other property;

(e) Gain from the sale or exchange of the family's main home;

(f) Accumulation distributions from trusts;

(g) Original issue discount, distribution from SEPs and DECs;

(h) Amounts received in place of wages from accident and health plans if the employer paid for the policy;

(i) Bartering income;

(j) Tier 2 and supplemental annuities under the Railroad Retirement Act;

(k) Life insurance proceeds from a policy the family cashed in if the proceeds are more than the premiums paid;

(l) Endowments;

(m) Lump-sum distribution;

(n) Prizes and awards;

(o) Gambling winnings;

(p) Social Security;

(q) Capital gains;

(r) Child support received.

[Statutory Authority: RCW 43.20A.725 and 43.20A.730. 95-03-049 (Order 3825), § 388-43-020, filed 1/11/95, effective 2/11/95. Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-020, filed 12/30/93, effective 1/30/94.]

WAC 388-43-130 Uses for returned equipment. (1) TAS shall issue, as available, the clean and working equipment, which has little or no warranty time left and has been returned to TAS by clients, free of charge to:

(a) Organizations serving hearing/speech disabled, deaf, and/or deaf-blind persons statewide; and

(b) Lending libraries of hospitals and/or hospice facilities.

(2) Organizations receiving used TAS equipment free of charge shall be thereafter responsible for equipment maintenance.

[Statutory Authority: RCW 43.20A.725 and 43.20A.730. 95-03-049 (Order 3825), § 388-43-130, filed 1/11/95, effective 2/11/95.]

Chapter 388-46 WAC
RECIPIENT FRAUD

WAC

WAC 388-46-110 Disqualification period for recipients convicted of unlawfully obtaining assistance. (1) A recipient convicted of unlawful practices in obtaining general assistance shall be disqualified from receiving further general assistance benefits.

(2) The disqualification shall apply only to convictions based on actions which occurred on or after July 23, 1995.

(3) The length of the disqualification shall be for a period to be determined by the court.

(4) The department shall terminate benefits to a recipient disqualified under this section following notice requirements specified under chapter 388-245 WAC.

[Statutory Authority: RCW 74.08.331, 74.08.290 and 1995 c 379. 95-19-003 (Order 3892), § 388-46-110, filed 9/6/95, effective 10/7/95.]

Chapter 388-47 WAC
JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

WAC

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-47-010 Job opportunities and basic skills training program (JOBS)—Authority and purpose. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-010, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-020 JOBS program—Definitions. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-020, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-030 Assessment. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-030, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-050 Employability plan. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-050, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-050, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-060 Unemployed parent program. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-060, filed 8/25/95, effective 9/25/95.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-070 JOBS program—Priority of services. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-070, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 74.25.020. 92-18-022 (Order 3442), § 388-47-070, filed 8/25/92, effective 9/25/92. Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-070, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-100 JOBS program—Participation requirements and exemptions. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-100, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-105 JOBS program—Required notices. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-105, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-107 Notice of employability plan decisions. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-107, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95.

Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-110 JOBS program—Education participation. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-110, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-110, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-115 Funding approval of education and JOBS components. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-115, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 74.04.057. 93-12-060 (Order 3563), § 388-47-115, filed 5/27/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 92-12-045 (Order 3398), § 388-47-115, filed 5/29/92, effective 7/1/92; 91-02-092 (Order 3129), § 388-47-115, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-120 JOBS program—Other education and training. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-120, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-120, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-125 JOBS program—Community work experience program. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-125, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-125, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-127 JOBS program—Work experience. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-127, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-127, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-130 JOBS program readiness training—Job readiness training—Intensive job search. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-130, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-130, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-135 JOBS program—On-the-job training. [Statutory Authority: RCW 74.04.050, 45 CFR 250.33, 250.74 (b)(1)(vi) and (c)(1) and (2). 95-18-020 (Order 3885), § 388-47-135, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-135, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-140 JOBS program—Work supplementation program. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-140, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-200 JOBS program—Good cause for refusal or failure to participate. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-200, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-210 JOBS program—Sanctions for refusal or failure to participate. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-210, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-215 JOBS program—Complaints and grievances. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-215, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-220 JOBS program—Conciliation and fair hearings. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-220, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

388-47-300 Indian tribal JOBS programs. [Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-300, filed 12/31/90, effective 1/31/91.] Repealed by 95-19-075 (Order 3897), filed 9/18/95, effective 10/19/95. Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090.

Reviser's note: Later promulgation, see chapter 388-300 WAC.

WAC 388-47-010 through 388-47-300 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-49 WAC
FOOD ASSISTANCE PROGRAMS
(Formerly chapter 388-54 WAC)

WAC

WAC 388-49-020 Definitions. (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not a person committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by:

(a) Department action or failure to act when the household properly and accurately reported all the household's circumstances to the department; or

(b) Department failure to timely implement an intentional program violation disqualification; or

(c) For households determined categorically eligible under WAC 388-49-180(1), department action or failure to act which resulted in the household's improper eligibility for public assistance, provided a claim can be calculated based on a change in net food stamp income and/or household size.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to preside over adjudicative proceedings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult nonhousehold member sufficiently aware of household circumstances designated, in writing, by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), or (c) who is a person:

(a) Paying reasonable compensation to the household for lodging and meals; or

(b) In foster care.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone seventeen years of age or younger, and under parental control.

(14) "Collateral contact" means oral contact in person or by telephone with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

(16) "Department" means the department of social and health services.

(17) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member to seek, accept, or continue employment, or attend training or education preparatory to employment.

(18) "Destitute household" means a household with a migrant or seasonal farmworker with little or no income at the time of application and in need of immediate food assistance.

(19) "Disabled person" means a person who meets one of the following criteria:

(a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran:

(i) With service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC); or

(ii) Considered in need of regular aid and attendance, or permanently housebound under Title 38 of the USC.

(d) Is a surviving:

(i) Spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or

(ii) Child of a veteran and considered permanently incapable of self-support under Title 38 of the USC;

(e) A surviving spouse or child of a veteran and:

(i) Entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC; and

(ii) Has a disability considered permanent under section 221(i) of the Social Security Act.

(f) Receives disability retirement benefits from a federal, state, or local government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act.

(h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

(20) "Documentary evidence" means written confirmation of a household's circumstances.

(21) "Documentation" means the process of recording the source, date, and content of verifying information.

(22) "Elderly person" means a person sixty years of age or older.

(23) "Eligible food" means:

(a) For a homeless food stamp household, meals prepared and served by an authorized homeless meal provider; or

(b) For a blind or a disabled resident, meals prepared and served by a group living arrangement facility.

(24) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(25) "Equity value" means fair market value less encumbrances.

(26) "Expedited services" means providing food stamps within five calendar days to an eligible household which:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross monthly income and liquid resources which are less than the household's current monthly rent or mortgage and either the:

(i) Standard utility allowance as set forth in WAC 388-49-505; or

(ii) Limited utility allowance; or

(iii) Actual utility costs, whichever is higher; or

(d) Includes all members who are homeless individuals; or

(e) Includes a destitute migrant or seasonal farmworker.

(27) "Fair hearing" means an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

(28) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(29) "Food coupon" means food stamps and the two terms are interchangeable.

(30) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(31) "Food stamp monthly reporting cycle" means the three-month reporting cycle consisting of the budget month, the process month, and the payment month.

(32) "Gross income eligibility standard" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(33) "Group living arrangement" means a public or private nonprofit residential setting which:

(a) Serves not more than sixteen blind or disabled residents as defined under WAC 388-49-020(19); and

(b) Is certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(34) "Head of household" means the person designated by the household to be named on the case file, identification card, and FCA card.

(35) "Household employment representative" means:

(a) The household member selected as the head of household for employment and training purposes and voluntary quit provisions. Selection is limited to households with:

(i) An adult parent of children, of any age, living in the household; or

(ii) An adult who has parental control over children, under eighteen years of age, living in the household; or

(b) The principal wage earner if no selection is made by the household, or the household is not entitled to make a selection.

(36) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(37) "Homeless individual" means a person lacking a fixed and regular nighttime residence or a person whose primary nighttime residence is a:

(a) Supervised shelter designed to provide temporary accommodations;

(b) Halfway house or similar institution providing temporary residence for persons needing or coming out of institutionalization;

(c) Temporary accommodation in the residence of another person; or

(d) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

(38) "Homeless meal provider" means a public or private nonprofit establishment (for example, soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by the division of income assistance (DIA) and authorized by food and nutrition service (FNS).

(39) "Household" means the basic client unit in the food stamp program.

(40) "Household disaster" means when food coupons, food purchased with food coupons, or food coupon authorization cards are destroyed by a natural disaster, such as flood, fire, etc.

(41) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(42) "Inadvertent household error overissuance" means any overissuance caused by either:

(a) Misunderstanding or unintended error by a household:

(i) Not determined categorically eligible under WAC 388-49-180(1); or

(ii) Determined categorically eligible under WAC 388-49-180(1) if a claim can be calculated based on a change in net food stamp income and/or household size; or

(b) Social Security Administration action or failure to take action which resulted in the household's categorical eligibility, if a claim can be calculated based on a change in net food stamp income and/or household size.

(43) "Ineligible household member" means the member excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

(b) Failure to apply for or provide a Social Security number;

(c) Failure to comply with work requirements as described under WAC 388-49-360;

(d) Status as an ineligible alien; or

(e) Failure to sign the application attesting to the member's citizenship or alien status.

(44) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(45) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

(46) "Intentional program violation" means intentionally:

(a) Making a false or misleading statement;

(b) Misrepresenting, concealing, or withholding facts; or

(c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

(47) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(48) "Live-in attendant" means a person residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(49) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

(a) Income tax refunds,
(b) Rebates,
(c) Retroactive payments, and
(d) Insurance settlements.

(50) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(51) "Migrant farmworker" means a person working in seasonal agricultural employment who is required to be absent overnight from the person's permanent residence.

(52) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(53) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as a:

(a) Roomer;
(b) Live-in attendant;
(c) Ineligible student; or
(d) Person who does not purchase and prepare meals with the food stamp household except for persons described under WAC 388-49-190(2).

(54) "Nonstriker" means any person:

(a) Exempt from work registration the day before the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) Unable to work because workplace is closed to employees by employer in order to resist demands of employees, e.g., a lockout.

(55) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

(56) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(57) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(58) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

(59) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(60) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

(61) "Principal wage earner" means the household member with the greatest source of earned income in the two months prior to the month of violation of employment and training and voluntary quit provisions, including members not required to register.

(62) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

(63) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(64) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

(65) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(66) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

(67) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(68) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

(69) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(70) "Resident of an institution" means a person residing in an institution that provides the person with the majority of meals as part of the institution's normal service.

(71) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

(72) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(73) "Roomer" means a person to whom a household furnishes lodging, but not meals, for compensation.

(74) "Seasonal farmworker" means a person working in seasonal agricultural employment who is not required to be absent overnight from the person's permanent residence.

(75) "Shelter costs" means:

(a) Rent or mortgage payments plus taxes on a dwelling and property;

(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(c) Assessments;

(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

(g) Continuing charges leading to shelter ownership such as loan repayments for the purchase of a mobile home including interest on such payments.

(76) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(77) "Sibling" means a natural or an adopted brother, sister, half brother, half sister, or stepbrother or stepsister.

(78) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident.

(79) "Sponsored alien" means an alien lawfully admitted for permanent residence who has an affidavit of support or similar agreement executed by a person on behalf of the

alien as a condition of the alien's admission into the United States as a permanent resident.

(80) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(81) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

(82) "Student" means any person:

(a) At least eighteen but less than fifty years of age;

(b) Physically and mentally fit for employment; and

(c) Enrolled at least half time in an institution of higher education.

(83) "Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

(84) "Temporary disability" means a nonpermanent physical illness or injury that incapacitates beyond the initial issuance month.

(85) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

(86) "Under parental control" means living with any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an AFDC grant as the person's own payee;

(b) Receiving, as the person's own payee, gross income equal to, or exceeding, the AFDC grant payment standard as described under WAC 388-250-1400(2);

(c) Married and living with a spouse; or

(d) Living with the person's own child.

(87) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(88) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

(89) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

[Statutory Authority: RCW 74.04.050. 95-19-013 (Order 3894), § 388-49-020, filed 9/7/95, effective 10/6/95. Statutory Authority: RCW 74.04.050, 74.04.510, 7 CFR 273.9(c) and 7 CFR 273.1(b). 95-06-028 (Order 3840), § 388-49-020, filed 2/22/95, effective 4/1/95. Statutory Authority: RCW 74.04.050, Administrative Notice 94-34 and Public Law 101-624 Section 1725. 94-20-042 (Order 3787), § 388-49-020, filed 9/28/94, effective 10/29/94. Statutory Authority: RCW 74.04.050. 94-16-038 (Order 3757), § 388-49-020, filed 7/27/94, effective 9/1/94. Statutory Authority: RCW 74.04.510 and 7 CFR 271.2. 93-11-041 (Order 3551), § 388-49-020, filed 5/12/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 92-11-059 (Order 3390), § 388-49-020, filed 5/19/92, effective 6/19/92. Statutory Authority: RCW 74.04.510. 91-16-065 (Order 3224), § 388-49-020, filed 8/1/91, effective 9/1/91; 91-10-096 (Order 3170), § 388-49-020, filed 5/1/91, effective 6/1/91; 90-12-057 (Order 3015), § 388-49-020, filed 5/31/90, effective 7/1/90; 89-18-035 (Order 2854), § 388-49-020, filed 8/29/89, effective 9/29/89; 89-07-001 (Order 2770), § 388-49-020, filed 3/2/89. Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-020, filed 8/2/88. Statutory Authority: RCW 74.04.510. 88-08-080 (Order 2618), § 388-49-020, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-020, filed 12/31/87.]

WAC 388-49-080 Expedited service. (1) The department shall provide expedited service for applying households when the household:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross monthly income and liquid resources which are less than the household's current monthly rent or mortgage and either the:

(i) Standard utility allowance as set forth in WAC 388-49-505;

(ii) Limited utility allowance; or

(iii) Actual utilities costs, whichever is higher; or

(d) Includes all members who are homeless individuals; or

(e) Includes a destitute migrant or seasonal farm worker whose liquid resources do not exceed one hundred dollars.

(2) The department shall provide food stamps to households eligible for expedited service by the end of the fifth calendar day following the date the application was filed.

(3) The department shall provide food stamps to residents of drug and alcohol treatment centers and group living arrangements eligible for expedited service, by the fifth calendar day following the date of application.

(4) When certifying a household eligible for expedited service, the department shall:

(a) Verify the applicant's identity through readily available documentary evidence, or if this is unavailable, through a collateral contact; or

(b) Verify the identity of the authorized representative who applies on behalf of the household; and

(c) Make a reasonable effort to complete verification as described in WAC 388-49-110 within the expedited processing standards;

(d) Require the applicant to register for work unless exempt or the authorized representative is applying for the household;

(e) Attempt to register other nonexempt household members for work without delaying expedited benefits;

(f) Issue benefits within five calendar days for expedited service; and

(g) Assist the household in obtaining necessary verification.

(5) The department shall not limit the number of times a household may receive expedited service provided the household:

(a) Completes the postponed verification requirements; or

(b) Was certified under the thirty-day processing standard since the last expedited certification.

(6) When a household is entitled to expedited service and a waiver of the office interview, the department shall:

(a) Conduct an out-of-office interview; and

(b) Complete the application process within the expedited service standard.

[Statutory Authority: RCW 74.04.050. 95-11-122 (Order 3856), § 388-49-080, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.04.050, Administrative Notice 93-53 and 7 CFR 274.2 (b)(3). 93-22-026 (Order 3654), § 388-49-080, filed 10/27/93, effective 11/27/93. Statutory Authority: RCW 74.04.510. 91-12-043 (Order 3187), § 388-49-080, filed 6/4/91, effective 7/5/91; 90-23-072 (Order 3097), § 388-49-080, filed 11/20/90, effective 12/21/90; 90-12-055 (Order 3013), § 388-49-080, filed 5/31/90, effective 7/1/90. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-080, filed 12/31/87.]

WAC 388-49-110 Verification. (1) The department shall verify household eligibility from the following sources:

(a) Documentary evidence;

(b) Collateral contacts; and

(c) Scheduled home visits.

(2) The household has primary responsibility for providing documentary evidence. The department shall offer to assist in obtaining documentary evidence if it would be difficult or impossible for the household to obtain in a timely manner.

(3) The department shall verify eligibility factors as deemed necessary by the department at certification, recertification, monthly reporting, and change of circumstance.

[Statutory Authority: RCW 74.04.050. 95-11-123 (Order 3855), § 388-49-110, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.04.050, CFR 273.21(i) and Administrative Notices 94-53 and 94-30. 94-17-173 (Order 3774), § 388-49-110, filed 8/24/94, effective 9/24/94. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9. 92-09-032 (Order 3368), § 388-49-110, filed 4/7/92, effective 5/8/92. Statutory Authority: RCW 74.04.510. 90-23-073 (Order 3098), § 388-49-110, filed 11/20/90, effective 12/21/90; 89-07-001 (Order 2770), § 388-49-110, filed 3/2/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-110, filed 12/31/87.]

WAC 388-49-150 Delayed and pended applications. (1) When the department does not determine eligibility or provide benefits within thirty days after the date of initial application, the department shall determine if the delay is the fault of the household or the department.

(2) When the delay is the fault of the household, the household shall:

(a) Lose benefits for the month of application,

(b) Have an additional thirty days to take the required action, and

(c) Be denied and be required to file a new application when the application process is not complete by the end of the second thirty-day period.

(3) When the delay is the fault of the department, the department shall take immediate corrective action:

(a) If the case file is complete, the department shall process the application.

(b) If the case file is incomplete, the department shall pend the application.

(c) If the case is incomplete after sixty days from the date of application, the department shall deny the application.

[Statutory Authority: RCW 74.04.050. 95-18-004 (Order 3883), § 388-49-150, filed 8/23/95, effective 9/23/95; 88-02-031 (Order 2575), § 388-49-150, filed 12/31/87.]

WAC 388-49-160 Certification periods. The department shall certify households:

(1) Receiving assistance to coincide with the assistance review or to the end of the assistance period whichever is earlier;

(2) Consisting of migrants up to three months;

(3) Without earned income in which all members are disabled or all members are disabled or elderly for up to twelve months;

(4) Without earned income in which all members are elderly for up to twenty-four months;

(5) With little likelihood of change for six months;

(6) Reporting monthly for six months;

(7) Consisting of an individual with a minor child living with the individual's parent or sibling and purchasing and preparing food separately per WAC 388-49-190 (1)(e) up to six months; and

(8) All other households for up to three months.

[Statutory Authority: RCW 74.04.050 and Waiver to 7 CFR 273.10 (f)(6). 95-06-030 (Order 3841), § 388-49-160, filed 2/22/95, effective 4/1/95. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-160, filed 12/31/87.]

WAC 388-49-170 Recertification. (1) The department shall provide a notice of expiration to an eligible household:

(a) Not later than the first day of the household's last month of certification for a multi-month period; or

(b) At the time of certification if the household is certified for up to two months.

(2) A household provided a notice of expiration reapplies timely when the department receives the application by:

(a) The fifteenth day of the last month of certification, or

(b) The fifteenth day after the notice is received if the notice is provided at the time of certification.

(3) The department shall treat a household that reapplies late like an initial application and approve or deny in accordance with WAC 388-49-120.

(4) A household completes the reapplication process when it:

(a) Submits a timely reapplication;

(b) Completes an interview; and

(c) Submits requested verification.

(5) The department shall notify a household that timely reapplies and completes the application of approval or denial:

(a) By the end of the current certification period, or

(b) Not later than thirty days after the last allotment when certified for one month.

(6) The department shall provide uninterrupted benefits to a household who timely completes the reapplication process.

[Statutory Authority: RCW 74.04.050. 95-18-004 (Order 3883), § 388-49-170, filed 8/23/95, effective 9/23/95; 88-02-031 (Order 2575), § 388-49-170, filed 12/31/87.]

WAC 388-49-190 Household concept. (1) The department shall consider the following as households:

(a) A person living alone;

(b) Persons living together and purchasing or preparing meals together; or

(c) A permanently disabled and elderly person unable to prepare meals provided the:

(i) Person's spouse shall be included in the household; and

(ii) Income of other individuals, except the person's spouse, living with the person does not exceed one hundred sixty-five percent of the poverty level.

(2) The department shall consider the following as households regardless of the purchase and prepare arrangements:

(a) Parents and their natural, adoptive, or stepchildren twenty-one years of age or younger except for the children who:

(i) Purchase and prepare meals separate from the parents; and

(ii) Live with a spouse; or

(iii) Live with their own child.

(b) Person seventeen years of age or younger under parental control of an adult other than their parent, and the adult who is maintaining the control; or

(c) Spouses who live together.

(3) The department shall consider the following persons living with the household as nonhousehold members who, if otherwise eligible, may qualify as a separate household:

(a) Roomers;

(b) Live-in attendants; or

(c) Persons sharing living quarters with the household who purchase food and prepare meals separately from the household.

(4) The department shall consider the following persons living with the household as ineligible household members:

(a) Persons disqualified for intentional program violation;

(b) Persons disqualified because of noncompliance with work requirements as described under WAC 388-49-360;

(c) Persons who are ineligible aliens;

(d) Persons disqualified for failure to apply for or provide a Social Security number; or

(e) Persons who fail to sign the application attesting to their citizenship or alien status.

[Statutory Authority: RCW 74.04.050 and 74.04.510. 95-12-001 (Order 3854), § 388-49-190, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.04.050, 74.04.510, P.L. 103-66, Administrative Notice 94-39 and 7 CFR 273.1(b). 95-06-027 (Order 3838), § 388-49-190, filed 2/22/95, effective 4/1/95. Statutory Authority: RCW 74.04.050, P.L. 103-66 and USDA Food and Nutrition Service Administrative Notices 94-01, 94-02 and 94-03. 94-16-039 (Order 3762), § 388-49-190, filed 7/27/94, effective 9/1/94. Statutory Authority: RCW 74.04.510. 91-10-098 (Order 3172), § 388-49-190, filed 5/1/91, effective 6/1/91; 90-14-064 (Order 3033), § 388-49-190, filed 6/29/90, effective 8/1/90; 89-07-001 (Order 2770), § 388-49-190, filed 3/2/89. Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-190, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-190, filed 12/31/87.]

WAC 388-49-250 Boarders. (1) The department defines a boarder as an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), or (c) who is:

(a) A person paying reasonable compensation to the household for lodging and meals; or

(b) A person in foster care.

(2) The department shall not grant separate household status to boarders.

(3) The department shall consider a person paying less than reasonable compensation to be a member of the household that provides meals and lodging.

(4) The department shall include any boarder in the food stamp household, at the household's request.

(5) Residents of a commercial boarding home are not eligible for food stamps.

[Statutory Authority: RCW 74104.510 [74.04.510] and 7 CFR 273.9(c) and 273.1(b). 95-06-026 (Order 3837), § 388-49-250, filed 2/22/95, effective 4/1/95. Statutory Authority: RCW 74.04.510. 89-05-032 (Order 2762), § 388-49-250, filed 2/13/89. Statutory Authority: RCW 74.04.050. 88-16-083 (Order 2664), § 388-49-250, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-250, filed 12/31/87.]

WAC 388-49-260 Nonhousehold and ineligible household members. (1) For nonhousehold members, the department shall:

(a) Consider separate household eligibility for those persons defined in WAC 388-49-190(3) except for ineligible students; and

(b) Not consider nonhousehold members when determining:

(i) Household size,

(ii) Income eligibility, or

(iii) Benefit level.

(2) For ineligible household members, the department shall:

(a) Not authorize food stamps for those persons described under WAC 388-49-190(4); and

(b) Not consider ineligible household members when determining income eligibility or benefit levels of the household.

[Statutory Authority: RCW 74.04.050 and 7 CFR 273.1(b). 95-06-029 (Order 3839), § 388-49-260, filed 2/22/95, effective 4/1/95. Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-260, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-260, filed 12/31/87.]

WAC 388-49-410 Resources—Exempt. (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if the household:

(i) Is making a good faith effort to sell; or

(ii) Intends to return to the home and the house is unoccupied due to:

(A) Employment;

(B) Training for future employment;

(C) Illness; or

(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;

(e) Household goods;

(f) One burial plot per household member;

(g) Cash value of:

(i) Life insurance policies; and

(ii) Pension funds.

(h) Vehicles as provided under WAC 388-49-430;

(i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and (g);

(j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;

(k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;

(l) Property essential to the employment or self-employment of a household member. Property excluded under this provision because the property is used by a self-employed farmer or fisherman shall retain its exclusion for one year from the date the household member terminates self-employment from farming or fishing;

(m) Resources held separately by a nonhousehold member;

(n) Indian lands:

(i) Held jointly with the tribe; or

(ii) Sold only with the approval of the Bureau of Indian Affairs.

(o) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;

(p) Cash value of resources not accessible to the household;

(q) Funds in a trust and the income produced by that trust, to the extent they are not available;

(r) Resources excluded by express provision of federal law from consideration in the food stamp program;

(s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;

(t) Value of the property sold under an installment contract;

(u) The value of property held for security if the purchase price is consistent with fair market value;

(v) Real or personal property when:

(i) Secured by a lien as a result of obtaining a business loan; and

(ii) The security or lien agreement prohibits the household from selling the asset or assets.

(w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;

(x) Energy assistance payments or allowances made under federal, state, or local laws;

(y) Resources of persons residing in shelters for battered women and children if:

(i) The resources are jointly owned with members of the former household; and

(ii) Access to the resources depends on the agreement of the joint owner.

(z) Payments received under the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, as follows:

(i) Payments from the annuity fund established by P.L. 101-41 made to a Puyallup Tribe member upon reaching twenty-one years of age;

(ii) The investments or purchases made directly with the annuity payment up to the amount from the annuity fund payment; and

(iii) Payments from the trust fund established by P.L. 101-41 made to a Puyallup Tribal member.

(2) The department shall continue to exempt a household's funds commingled in an account with nonexempt funds for up to six months from the date the funds are commingled.

(3) The department shall exempt a resource of a household member who receives a supplemental security income (SSI) or aid to families with dependent children (AFDC) grant.

[Statutory Authority: RCW 74.04.050 and 7 CFR 273.1(b), 273.8 (e)(5) and 273.8 (h)(l)(i). 95-06-031 (Order 3836), § 388-49-410, filed 2/22/95, effective 4/1/95. Statutory Authority: RCW 74.04.050, USDA Food and Nutrition Service Administrative Notice 94-03 sections 13923 and 13924, P.L. 103-66 and CFR 273.8 (e)(3), 273.8(g), and 273.8(h). 94-16-041 (Order 3756), § 388-49-410, filed 7/27/94, effective 9/1/94. Statutory Authority: RCW 74.04.510. 92-09-117 (Order 3375), § 388-49-410, filed 4/21/92, effective 5/22/92; 91-23-087 (Order 3289), § 388-49-410, filed 11/19/91, effective 12/20/91; 91-10-097 (Order 3171), § 388-49-410, filed 5/1/91, effective 6/1/91; 90-11-004 (Order 2976), § 388-49-410, filed 5/3/90, effective 6/3/90; 89-18-030 (Order 2857), § 388-49-410, filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-410, filed 8/2/88. Statutory Authority: RCW 74.04.510. 88-08-081 (Order 2619), § 388-49-410, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-410, filed 12/31/87.]

WAC 388-49-420 Resources—Nonexempt. (1) The department shall consider the following resources nonexempt:

(a) Liquid resources;

(b) Real and personal property not exempted by WAC 388-49-410; and

(c) Money secured in the form of a lump sum.

(2) The value of a nonexempt resource, except for licensed vehicles as specified in WAC 388-49-430, shall be its equity value.

(3) The department shall exempt funds having been commingled in an account with nonexempt funds for more than six months.

(4) The department shall consider resources owned jointly by separate households available in their entirety to each household, unless:

(a) The resource is inaccessible to one of the households, and

(b) Ownership is verified, if questionable.

(5) The department shall consider resources of ineligible household members as available to the remaining household members.

(6) Excluding one thousand five hundred dollars, the department shall consider resources of an alien sponsor and spouse living together available:

(a) To the household as specified in WAC 388-49-270, for three years following the alien's admission to the United States for permanent residence;

(b) To the extent deemed resources are divided by the number of sponsored aliens applying for or participating in the program, if the alien can demonstrate the sponsor is sponsoring other aliens; and

(c) Until one of the following occurs:

(i) Alien obtains a new sponsor, should the alien lose a sponsor during the three-year limit;

(ii) The three-year period for applying the sponsored alien provisions expires; or

(iii) The sponsor dies.

[Statutory Authority: RCW 74.04.050 and 7 CFR 273.1(b). 95-06-032 (Order 3835), § 388-49-420, filed 2/22/95, effective 4/1/95. Statutory Authority: RCW 74.04.510. 91-22-046 (Order 3277), § 388-49-420, filed 10/31/91, effective 12/1/91; 91-10-097 (Order 3171), § 388-49-420, filed 5/1/91, effective 6/1/91; 90-23-075 (Order 3100), § 388-49-420, filed 11/20/90, effective 12/21/90; 89-07-001 (Order 2770), § 388-49-420, filed 3/2/89. Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-420, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-420, filed 12/31/87.]

WAC 388-49-430 Resources—Vehicles. (1) The department shall exclude the entire value of a licensed vehicle even during periods of temporary unemployment if the vehicle is:

(a) Used for income-producing purposes over fifty percent of the time the vehicle is in use. A vehicle excluded under this provision because the vehicle is used by a self-employed farmer or fisherman retains its exclusion for one year from the date the household member terminates self-employment from farming or fishing;

(b) Annually producing income consistent with its fair market value;

(c) Necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member, ineligible alien, or disqualified person whose resources are considered available to the household;

(d) Necessary for subsistence hunting or fishing;

(e) Used as the household's home;

(f) Used to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household; or

(g) Necessary to transport a temporarily or permanently physically disabled:

(i) Household member;

(ii) Ineligible alien whose resources are available to the household; or

(iii) Disqualified person whose resources are available to the household.

The exclusion is limited to one vehicle per physically disabled person.

(2) The department shall count the equity value of an unlicensed vehicle even during periods of temporary unemployment unless the vehicle is:

(a) Annually producing income consistent with its fair market value (FMV) even if only used on a seasonal basis; or

(b) Work-related equipment necessary for employment or self-employment of a household member.

(3) The department shall consider unlicensed vehicles the same as licensed vehicles if the vehicles are driven by Indian tribal members on those reservations not requiring vehicle licensing.

(4) The department shall count toward the household's resource maximum either the FMV in excess of four thousand six hundred dollars or the equity value of licensed vehicles, whichever is greater. Except, the department shall only count the FMV in excess of four thousand six hundred dollars for the following vehicles:

(a) One licensed vehicle per household regardless of the vehicle's use; and

(b) Any other licensed vehicle used for:

(i) Transportation to and from employment;

(ii) Seeking employment; or

(iii) Transportation for training or education.

(5) The department shall determine the FMV using vehicles listed in publications written for the purpose of providing guidance to automobile dealers and loan companies.

[Statutory Authority: RCW 74.04.510 and P.L. 103-66. 95-24-018 (Order 3920), § 388-49-430, filed 11/22/95, effective 12/23/95. Statutory Authority: RCW 74.04.050 and 7 CFR 273.1(b), 273.8 (e)(5) and 273.8 (h)(l)(i). 95-06-031 (Order 3836), § 388-49-430, filed 2/22/95, effective 4/1/95. Statutory Authority: RCW 74.04.050, USDA Food and Nutrition Service Administrative Notice 94-03 sections 13923 and 13924, P.L. 103-66 and CFR 273.8 (e)(3), 273.8(g) and 273.8(h). 94-16-041 (Order 3756), § 388-49-430, filed 7/27/94, effective 9/1/94. Statutory Authority: RCW 74.04.050 and 7 CFR 273.8(h). 93-16-044 (Order 3605), § 388-49-430, filed 7/28/93, effective 8/28/93. Statutory Authority: RCW 74.04.510. 91-16-064 (Order 3226), § 388-49-430, filed 8/1/91, effective 9/1/91; 89-18-030 (Order 2857), § 388-49-430, filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-430, filed 12/31/87.]

WAC 388-49-480 Income—Ineligible household members. (1) The department shall determine eligibility and benefit level for households containing persons disqualified for intentional program violation or persons disqualified for failure to meet work requirements described in WAC 388-49-360 as follows:

(a) The entire income of the disqualified persons shall be considered available to the remaining household members;

(b) The entire household's allowable earned income, standard deduction, medical, dependent care, and excess shelter deduction shall be considered in their entirety; and

(c) The household's coupon allotment shall not be increased as a result of the exclusion of one or more persons.

(2) The department shall determine eligibility and benefit level for households containing persons ineligible because of alien status, disqualification for refusal to obtain or provide a Social Security number, or failure to sign the application attesting to their citizenship or alien status as follows:

(a) A pro rata share of the income of the ineligible persons shall be counted as income to the remaining household members;

(b) The twenty percent earned income deduction shall apply to the ineligible persons' earned income attributed to the household; and

(c) The portion of the household's allowable shelter and dependent care expense which is paid by or billed to the ineligible members shall be divided evenly among all members of the household, providing the ineligible members have income.

(3) The department shall exclude ineligible or disqualified household members when determining the household's size for purposes of:

(a) Assigning a benefit level; and

(b) Comparing the household's monthly income to the income eligibility standards.

[Statutory Authority: RCW 74.04.510 and 7 CFR 273.1 (b)(2)(i). 95-07-122 (Order 3842), § 388-49-480, filed 3/22/95, effective 4/22/95. Statutory Authority: RCW 74.04.510. 91-15-088 (Order 3209), § 388-49-480, filed 7/23/91, effective 8/23/91; 89-07-001 (Order 2770), § 388-49-480, filed 3/2/89. Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-480, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-480, filed 12/31/87.]

WAC 388-49-500 Income—Deductions. (1) The department shall allow the following deductions when computing net income:

(a) A standard deduction of one hundred thirty-eight dollars per household per month;

(b) An earned income deduction of twenty percent of gross earned income except as provided in WAC 388-49-640(8);

(c) A dependent care deduction of the actual amount incurred not to exceed two hundred dollars for each dependent one year of age or younger and one hundred seventy-five dollars for each other dependent when care is necessary for a household member to:

(i) Seek, accept, or continue employment; or

(ii) Attend training or education preparatory to employment.

(d) A deduction for nonreimbursable monthly medical expenses over thirty-five dollars incurred or anticipated to be incurred by an elderly or disabled household member;

(e) A deduction for legally obligated child support paid for a person who is not a member of the household;

(f) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, medical, child support, and dependent care deductions. The shelter deduction shall not exceed two hundred forty-seven dollars; and

(g) An excess shelter deduction for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions for households containing an elderly or disabled person.

(2) Shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster if the:

(i) Household intends to return to the home;

(ii) Current occupants, if any, are not claiming shelter costs for food stamp purposes; and

(iii) Home is not being leased or rented during the household's absence.

(b) Charges for the repair of the home substantially damaged or destroyed due to a natural disaster;

(c) The standard utility allowance when a household incurs any separate utility charges for heating or cooling costs or the limited utility allowance when a household incurs any separate utility charges other than telephone costs and is not entitled to the standard utility allowance. A household may incur a separate utility charge when the household:

(i) Has not yet received a billing for utilities;

(ii) Is billed monthly by the landlord for actual usage as determined through individual metering; or

(iii) Shares residence and utility costs with other persons, in which case the deduction is for the household's prorated share of the standard or limited utility allowance.

(d) Actual utility costs rather than the standard or limited utility allowance if the household is:

(i) Not entitled to the standard or limited utility allowance; or

(ii) Requesting use of actual utility bills. The department shall allow a monthly telephone standard for households incurring telephone expenses if the household is not entitled to claim the standard or limited utility allowance.

(e) A shelter amount of one hundred forty-three dollars when all household members are homeless as specified under WAC 388-49-020(36) and the household incurs or expects to incur:

(i) Monthly shelter costs no greater than one hundred forty-three dollars; or

(ii) Unverified shelter costs exceeding one hundred forty-three dollars.

(3) A household may switch between actual utility costs and the standard or limited utility allowance:

(a) At each recertification; and

(b) One additional time during each twelve-month period following the initial certification action.

(4) The department shall provide excess medical or shelter deductions effective with supplemental security income (SSI) eligibility when households:

(a) Become categorically eligible within the time limits specified under WAC 388-49-120 and 388-49-150 after a food stamp application;

(b) Receive food stamps as a nonassistance household until becoming categorically eligible; or

(c) Become categorically eligible after denial of nonassistance food stamps.

(5) The department shall not provide a deduction for that portion of a deductible expense, described under this section, paid by an excluded:

(a) Reimbursement; or

(b) Vendor payment, except for Low Income Home Energy Assistance Act (LIHEAA) payments.

[Statutory Authority: RCW 74.04.050 and 7 CFR 273.9 (a),(d)(6)(v) and (vi), (5), (7) and (8). 95-21-052 (Order 3907), § 388-49-500, filed 10/11/95, effective 11/11/95. Statutory Authority: RCW 74.04.050 and 7 CFR 273.9 (d)(6)(v). 95-11-120 (Order 3852), § 388-49-500, filed 5/24/95, effective 7/1/95. Statutory Authority: RCW 74.04.500 and 7 CFR 273.9 (d)(1) and (5)(i). 95-02-023 (Order 3814), § 388-49-500, filed 12/28/94, effective 1/28/95. Statutory Authority: RCW 74.04.510 and Public Law 103-66. 94-20-041 (Order 3786), § 388-49-500, filed 9/28/94, effective 10/29/94. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (e)(5)(ii). 94-12-042 (Order 3738), § 388-49-500, filed 5/26/94, effective 7/1/94. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (a)(3), (d)(l), (d)(5)(i) and (ii). 93-23-033 (Order 3666), § 388-49-500, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9(a). 92-22-055 (Order 3473), § 388-49-500, filed 10/28/92, effective 11/28/92. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (e)(5)(i). 92-09-031 (Order 3367), § 388-49-500, filed 4/7/92, effective 5/8/92. Statutory Authority:

RCW 74.04.510. 91-23-090 (Order 3292), § 388-49-500, filed 11/19/91, effective 12/20/91; 90-23-074 (Order 3099), § 388-49-500, filed 11/20/90, effective 12/21/90; 90-12-054 (Order 3012), § 388-49-500, filed 5/31/90, effective 7/1/90; 89-23-083 (Order 2901), § 388-49-500, filed 11/17/89, effective 12/18/89; 88-23-085 (Order 2726), § 388-49-500, filed 11/18/88; 88-08-078 (Order 2616), § 388-49-500, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-500, filed 12/31/87.]

WAC 388-49-505 Utility allowances. (1) The department shall:

(a) Establish the following utility allowances for use in calculating shelter costs:

(i) A standard utility allowance for households incurring any separate utility charges for heating or cooling costs;

(ii) A limited utility allowance for households, without heating or cooling costs, incurring any separate utility charges other than telephone costs; and

(iii) A telephone allowance for households incurring separate charges for phone service and not claiming the standard or limited utility allowance.

(b) Obtain food and consumer service approval of the methodology used to establish utility allowances.

(2) The standard utility allowance shall be two hundred twenty dollars.

(3) The limited utility allowance shall be one hundred fifty-six dollars.

(4) The telephone allowance shall be twenty-nine dollars.

[Statutory Authority: RCW 74.04.050 and 7 CFR 273.9 (a),(d)(6)(v) and (vi), (5), (7) and (8). 95-21-052 (Order 3907), § 388-49-505, filed 10/11/95, effective 11/11/95. Statutory Authority: RCW 74.04.050 and 7 CFR 273.9 (d)(6)(vi). 95-11-121 (Order 3853), § 388-49-505, filed 5/24/95, effective 7/1/95. Statutory Authority: RCW 74.04.050 and 7 CFR 273.9 (d)(6)(v) and (vi). 94-17-174 (Order 3776), § 388-49-505, filed 8/24/94, effective 10/1/94. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (d)(6)(vi) and Letter of Approval from Food and Nutrition Services. 93-18-024 (Order 3626), § 388-49-505, filed 8/25/93, effective 10/1/93. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9(a). 92-22-055 (Order 3473), § 388-49-505, filed 10/28/92, effective 11/28/92. Statutory Authority: RCW 74.04.510. 91-08-013 (Order 3154), § 388-49-505, filed 3/26/91, effective 4/26/91; 89-23-083 (Order 2901), § 388-49-505, filed 11/17/89, effective 12/18/89; 88-23-085 (Order 2726), § 388-49-505, filed 11/18/88. Statutory Authority: RCW 74.04.050. 88- 04-042 (Order 2593), § 388-49-505, filed 1/28/88.]

WAC 388-49-510 Income eligibility standards. (1) Categorically eligible households, as described in WAC 388-49-180, are not subject to the provisions of this section.

(2) The department shall determine eligibility on the basis of gross income and net food stamp income except for households in subsection (3) of this section.

(3) The department shall determine eligibility on the basis of net food stamp income for households containing an elderly or disabled member.

(4) The gross and net monthly maximum income standards as established by the department of agriculture are as follows:

Gross Monthly Income Standard

Household Size	Maximum Standard
1	$810
2	1,087
3	1,364
4	1,642
5	1,919
6	2,196
7	2,474
8	2,751
9	3,029
10	3,307
Each additional person	+278

Net Monthly Income Standard

Household Size	Maximum Standard
1	$623
2	836
3	1,050
4	1,263
5	1,476
6	1,690
7	1,903
8	2,116
9	2,330
10	2,544
Each additional person	+214

[Statutory Authority: RCW 74.04.050 and 7 CFR 273.9 (a),(d)(6)(v) and (vi), (5), (7) and (8). 95-21-052 (Order 3907), § 388-49-510, filed 10/11/95, effective 11/11/95. Statutory Authority: RCW 74.04.050 and 7 CFR 273.9(a). 94-20-045 (Order 3790), § 388-49-510, filed 9/28/94, effective 10/29/94. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (a)(3), (d)(l), (d)(5)(i) and (ii). 93-23-033 (Order 3666), § 388-49-510, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9(a). 92-22-055 (Order 3473), § 388-49-510, filed 10/28/92, effective 11/28/92. Statutory Authority: RCW 74.04.510. 91-23-090 (Order 3292), § 388-49-510, filed 11/19/91, effective 12/20/91; 90-23-074 (Order 3099), § 388-49-510, filed 11/20/90, effective 12/21/90; 89-23-083 (Order 2901), § 388-49-510, filed 11/17/89, effective 12/18/89; 88-23-085 (Order 2726), § 388-49-510, filed 11/18/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-510, filed 12/31/87.]

WAC 388-49-550 Monthly allotments. (1) The department shall determine the value of the allotment a household receives.

(2) The monthly allotment shall equal the thrifty food plan (TFP) for the household size reduced by thirty percent of the household's net income. The department shall use the monthly allotment standards as established by the food and nutrition service.

Household Size	Thrifty Food Plan
1	$119
2	218
3	313
4	397
5	472
6	566
7	626
8	716
9	806
10	896
Each additional member	+ 90

(3) The department shall issue to households, except for households as specified in subsection (4) of this section, a prorated coupon allotment for the number of days remaining from the date of application to the end of the initial month of eligibility.

(a) The department shall base the allotment on a thirty-day month.

(b) The department shall not issue an allotment for less than ten dollars.

(4) The department shall issue a full month's allotment to households applying within one calendar month of a prior certification period.

(5) The department shall determine the value of the monthly allotment a household receives by:

(a) Multiplying the household's net monthly income by thirty percent;

(b) Rounding the product up to the next whole dollar if it ends with one through ninety-nine cents; and

(c) Subtracting the result from the thrifty food plan for the appropriate household size.

(6) One- and two-person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month when the department shall not issue an allotment for less than ten dollars.

(7) The department shall issue an identification card to each certified household.

[Statutory Authority: RCW 74.04.050 and 7 CFR 273.10 (e)(4)(ii)(F). 95-21-054 (Order 3909), § 388-49-550, filed 10/11/95, effective 11/11/95. Statutory Authority: RCW 74.04.050 and 7 CFR 273.10 (e)(4)(ii)(F) and FNS ADM Memo 07-19-94. 94-21-041 (Order 3795), § 388-49-550, filed 10/12/94, effective 11/12/94. Statutory Authority: RCW 74.04.050, Administrative Notice 94-03 and P.L. 103-66 section 13916. 94-16-045 (Order 3755), § 388-49-550, filed 7/27/94, effective 9/1/94. Statutory Authority: RCW 74.04.510 and 7 CFR 273.10 (e)(4)(ii)(F). 93-22-028 (Order 3656), § 388-49-550, filed 10/27/93, effective 11/27/93. Statutory Authority: RCW 74.04.510. 91-23-088 (Order 3290), § 388-49-550, filed 11/19/91, effective 12/20/91; 90-23-077 (Order 3102), § 388-49-550, filed 11/20/90, effective 12/21/90; 89-22-132 (Order 2894), § 388-49-550, filed 11/1/89, effective 12/2/89; 89-05-031 (Order 2760), § 388-49-550, filed 2/13/89; 88-23-082 (Order 2728), § 388-49-550, filed 11/18/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-550, filed 12/31/87.]

WAC 388-49-600 Notices to households. (1) The department shall notify a certified household of any change:

(a) At least ten days before the change; or

(b) By the date benefits are to be received for a household reporting changes on the monthly report.

(2) The department is not required to provide advance notice when:

(a) The federal or state government makes mass changes;

(b) The department determines all household members have died;

(c) The household moves from the state;

(d) The department restored lost benefits and previously notified the household in writing when the increased allotment would terminate;

(e) The department notified the household at the time of certification that allotments would vary from month to month;

(f) The household's benefits are reduced because a public assistance grant is approved;

(g) A household member is disqualified for intentional program violation or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member; or

(h) The department initiates recoupment action on a claim for which the department has already given the household advance notice.

[Statutory Authority: 7 CFR 273.13 (b)(14). 95-18-003 (Order 3884), § 388-49-600, filed 8/23/95, effective 10/1/95. Statutory Authority: RCW 74.04.510. 91-11-087 (Order 3181), § 388-49-600, filed 5/21/91, effective 6/1/91; 90-09-036 (Order 2967), § 388-49-600, filed 4/11/90, effective 5/12/90. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-600, filed 12/31/87.]

WAC 388-49-640 Overissuances. (1) The department shall establish claims and take collection action against households and household members for administrative error, inadvertent household error, or intentional program violation resulting in overissuances except as provided in subsections (3), (10), and (11) of this section.

(2) The department shall establish an overissuance claim against any household:

(a) Receiving more food stamp benefits than it was entitled to receive; or

(b) Containing an adult member who was an adult member of another household receiving more benefits than it was entitled to receive.

(3) The department shall not establish an administrative error claim or an inadvertent household error claim if an overissuance occurred because:

(a) The department failed to ensure the household:

(i) Signed the application form;

(ii) Completed a current work registration form; or

(iii) Was certified in the correct project area.

(b) The household transacted an expired food coupon authorization (FCA) unless the household had altered the FCA.

(4) The department shall hold all persons who were adult members of the household at the time of the overissuance jointly and severally liable for the overissuance.

(a) The department shall establish an overissuance claim and pursue collection action against any or all of these persons.

(b) If the household composition changes, the department may establish an overissuance claim and pursue collection action against any household containing a person who was an adult member of the household receiving the overissuance.

(5) The department shall not collect more than the amount of the overissuance.

(6) The department shall not establish an:

(a) Administrative error overissuance unless the department has:

(i) Discovered the overissuance within twelve months of its occurrence; and

(ii) Calculated the overissuance and mailed the household a demand letter within twenty-four months of the overissuance discovery date.

(b) Inadvertent household error overissuance unless the department has:

(i) Discovered the overissuance within twenty-four months of its occurrence; and

(ii) Calculated the overissuance and mailed the household a demand letter within twenty-four months of the overissuance discovery date.

(c) Intentional program violation overissuance unless the department has:

(i) Discovered the overissuance within seventy-two months of its occurrence; and

(ii) Calculated the overissuance and mailed the household a demand letter within twenty-four months of the overissuance discovery date.

(7) Except as provided in subsection (9) of this section, the department shall determine the overissuance amount to be the difference between:

(a) The allotment actually authorized; and

(b) The allotment that should have been authorized.

(8) When determining the monthly allotment the household should have been authorized, the department shall:

(a) Count the actual income received by the household;

(b) Not apply the twenty percent earned income deduction to that portion of earned income willfully or fraudulently unreported by the household member when committing an intentional program violation.

(9) The amount of the household's and/or household member's liability for an overissuance shall be the difference between:

(a) The amount of the overissuance; and

(b) Any lost benefits not previously restored or used as an offset.

(10) The department shall initiate collection action on all inadvertent household or administrative error claims unless:

(a) The claim is collected through offset;

(b) The administrative error claim is less than one hundred dollars;

(c) The inadvertent household error claim is less than thirty-five dollars;

(d) The department cannot locate the liable household; or

(e) The department determines collection action will prejudice an inadvertent household error claim case referred for possible prosecution or administrative disqualification.

(11) The department shall initiate collection action against the liable household whose member is found to have committed an intentional program violation unless:

(a) The household has repaid the overissuance;

(b) The department cannot locate the household; or

(c) The department determines collection action will prejudice the case against a household member referred for prosecution.

(12) The department shall initiate collection action by providing the household a demand letter.

(13) A household or household member may repay an overissuance by:

(a) A lump sum;

(b) Regular installments under a payment schedule agreed to by the household or household member and the department; and/or

(c) Allotment reduction.

(14) The department shall ensure a negotiated monthly installment amount is not less than the amount which could be recovered through allotment reduction when a currently participating household is liable for an inadvertent household error or an intentional program violation.

(15) A household member and/or the department may request the payment schedule be renegotiated.

(16) When allotment reduction is the method of collection, the department shall reduce a currently participating household's allotment to repay an:

(a) Inadvertent household error overissuance by the greater of:

(i) Ten percent of the household's monthly allotment; or

(ii) Ten dollars per month.

(b) Intentional program violation overissuance by the greater of:

(i) Twenty percent of the household's monthly entitlement; or

(ii) Ten dollars per month.

(c) Administrative error overissuance by the amount agreed to by the household.

(17) The department shall reduce the allotment to repay an inadvertent household error or an intentional program violation claim when:

(a) A household is liable for an inadvertent household error claim and fails to notify the department of their chosen repayment agreement or request a fair hearing and continued benefits within twenty days after receipt of the demand letter; or

(b) A household is liable for an intentional program violation claim and fails to inform the department of their chosen repayment agreement within ten days after receiving the demand letter; or

(c) After notification of failure to make payment according to a negotiated repayment schedule, the household member fails to:

(i) Make the overdue payments; or

(ii) Request renegotiation of the payment schedule.

(18) The department shall suspend collection action when:

(a) Collection action has not been initiated as provided in subsection (10) of this section;

(b) A liable household member cannot be located; or

(c) The cost of further collection action is likely to exceed the amount that can be recovered.

(19) The department may accept offers of compromise for overissuances when:

(a) The department has already established the account receivable for the overissuance and taken steps to recover the overissuance; and

(b) The amount offered approximates the net amount expected to be collected prior to the expiration of the collection period allowed by statute.

(20) The department shall write-off amounts from its account receivable records and release any applicable liens prior to the expiration of the collection period allowed by statute when there is:

(a) No further possibility of collection;

(b) An account receivable balance after payment of an accepted offer of compromise; or

(c) An account receivable balance after a claim has been in suspense for three consecutive years, as provided in subsection (19) of this section.

(21) The department may initiate collection action to satisfy a food stamp overissuance which occurred in another state when the department:

(a) Determines that the originating state does not intend to pursue collection in Washington state; and

(b) Receives the following from the originating state:

(i) Documentation of the overissuance computation;

(ii) Overissuance notice prepared for the client; and

(iii) Proof of service that the client received the overissuance notice.

[Statutory Authority: RCW 74.04.050. 95-19-013 (Order 3894), § 388-49-640, filed 9/7/95, effective 10/6/95. Statutory Authority: RCW 74.04.510 and 7 CFR 273.18(1). 94-23-131 (Order 3810), § 388-49-640, filed 11/23/94, effective 1/1/95. Statutory Authority: RCW 74.04.510. 92-12-043 (Order 3396), § 388-49-640, filed 5/29/92, effective 7/1/92; 91-22-047 (Order 3278), § 388-49-640, filed 10/31/91, effective 12/1/91; 88-08-039 (Order 2610), § 388-49-640, filed 4/1/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-640, filed 12/31/87.]

WAC 388-49-660 Intentional program violations—Administrative disqualification hearings. Administrative disqualification hearings are governed by chapter 388-08 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-08 WAC, the provision in this section controls.

(1) The department shall refer a person who has no prior intentional program violation but who is suspected of committing an intentional program violation for an administrative disqualification hearing when:

(a) The overissuance caused by the suspected intentional program violation is four hundred fifty dollars or more; and

(b) At the time of referral, the person resides:

(i) In Washington state; or

(ii) Outside Washington but within one hour's reasonable drive to a community services office; and

(c) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(2) The department shall refer a person who has committed one or more intentional program violations and who is suspected of committing another intentional program violation when:

(a) The act of suspected intentional program violation occurred:

(i) After the department mailed the administrative decision disqualifying the person for the most recent intentional program violation; or

(ii) After entry of the order in criminal proceedings that caused the person to be disqualified for the most recent intentional program violation; and

(b) At the time of referral, the person resides:

(i) In Washington state; or

(ii) Outside Washington but within one hour's reasonable drive to a community services office; and

(c) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(3) The department shall:

(a) Give thirty days or more advance notice of the hearing date to the person alleged to have committed an intentional program violation as defined in WAC 388-49-020; and

(b) Obtain proof of receipt of the notice.

(4) The notice of hearing shall comply with WAC 10-08-040 and contain the following information:

(a) The allegations;

(b) A summary of the department's evidence;

(c) A statement of how and where interested parties may examine the evidence;

(d) A statement that if the person or a representative fails without good cause to appear at the hearing, the administrative law judge and the review judge will make a decision based solely on the evidence and argument the department presents;

(e) A statement that the person has ten days from the date of the scheduled hearing to file a request with the administrative law judge:

(i) Showing good cause for failure to appear; and

(ii) Seeking a new hearing; and

(f) A statement that if a telephone hearing is scheduled, the person may request an in-person hearing by filing a request with the administrative law judge one week or more prior to the date of the hearing.

(5) The person or a representative shall have the right to one continuance of up to thirty days provided a request is filed ten days or more prior to the hearing date.

(6) The department shall conduct the hearing without the person or a representative if either person fails to appear at the hearing without good cause.

(a) The administrative law judge and the review judge shall base the decision solely on the evidence and argument the department presents.

(b) The person has ten days from the date of the scheduled hearing to file a request with the administrative law judge:

(i) Showing good cause for failure to appear; and

(ii) Requesting the hearing be reinstated.

(7) The administrative law judge shall grant a request to change a scheduled telephone hearing to an in-person hearing if the person or representative:

(a) Files the request one week or more before the date the hearing is scheduled; or

(b) Files the request one week or less before the date the hearing is scheduled if the person shows good cause for having the hearing conducted in person.

(8) The administrative law judge shall advise the person or representative they may refuse to answer questions during the hearing.

(9) The department shall bear the burden of proof for demonstrating intentional program violation with clear and convincing evidence.

(10) The department shall follow the decision-rendering in chapter 388-08 WAC.

(11) The department shall make a final decision and notify the household member of the decision within ninety days of the date the person receives the notice of hearing.

(12) The department may combine an overissuance fair hearing and an administrative disqualification hearing into a single hearing when the facts alleged for each arise out of the same or related circumstances. When combined:

(a) The department shall apply the hearing procedures and time frames applicable to an administrative disqualification hearing;

(b) The household loses its right to a subsequent fair hearing on the overissuance; and

(c) The department shall give prior notice to:

(i) The person alleged to have committed the intentional program violation; and

(ii) The person alleged to be liable for the overissuance.

(13) The department shall stay implementing a disqualification and continue benefits at the level preceding such disqualification when the client timely:

(a) Requests reinstatement of an administrative disqualification hearing for failure to appear; or

(b) Files a petition for review or petition for reconsideration to overturn a disqualification order.

[Statutory Authority: RCW 74.04.050. 95-19-013 (Order 3894), § 388-49-660, filed 9/7/95, effective 10/6/95. Statutory Authority: RCW 74.04.510. 92-12-044 (Order 3397), § 388-49-660, filed 5/29/92, effective 7/1/92; 89-23-082 (Order 2900), § 388-49-660, filed 11/17/89, effective 1/1/90; 89-12-035 (Order 2804), § 388-49-660, filed 6/1/89; 88-08-040 (Order 2609), § 388-49-660, filed 4/1/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-660, filed 12/31/87.]

WAC 388-49-670 Intentional program violations—Disqualification penalties. (1) The department shall disqualify the person or persons committing an intentional program violation as defined in WAC 388-49-020.

(2) The department shall apply the following disqualification penalties to a person committing an intentional program violation for offenses not related to those described in subsection (3) of this section:

(a) Six months for the first disqualification;

(b) Twelve months for the second disqualification; and

(c) Permanently for the third disqualification.

(3) The department shall apply disqualification penalties against a person for trading or receiving food coupons for controlled substances or firearms. The department shall impose:

(a) A one-year disqualification penalty for a first conviction by a federal, state, or local court of the trading or receiving of food coupons for a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(b) A permanent disqualification for:

(i) The second conviction by a federal, state, or local court of the trading or receiving of food coupons for a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(ii) The first conviction by a federal, state, or local court of the trading or receiving of food coupons for firearms, ammunition, or explosives.

(4) The department shall consider multiple violations as only one disqualification when the violations occur before the department notified the household of the penalties, as described in subsection (2)(a) of this section.

(5) When a court of law convicts a person of an offense which qualifies as an intentional program violation, the department shall:

(i) Recommend that a disqualification penalty, as provided in subsection (2) or (3) of this section, be imposed in addition to any civil or criminal intentional program violation penalties;

(ii) Impose a disqualification period as specified in subsection (2) or (3) of this section if the court fails to address disqualification or specify a disqualification period;

(iii) Initiate the disqualification period for the currently eligible person or persons within forty-five days of the date the:

(A) Disqualification is ordered if the court does not specify a date; or

(B) Court finds such person or persons guilty if the court specifies a disqualification date; and

(iv) Not initiate or continue an intentional program violation disqualification period contrary to a court order.

(6) The department shall provide written notice of disqualification to the person or persons before the disqualification. The department shall ensure the notice informs the:

(a) Participating person or persons of the disqualification and the effective date of the disqualification; or

(b) Nonparticipating person or persons that the disqualification period will be deferred until such time as the person or persons applies for and is found eligible for benefits.

(7) The department shall provide written notice to the remaining household member or members, if any:

(a) Of the allotment the household will receive during the period of disqualification; or

(b) That the household must re-apply because the certification period has expired.

(8) The department shall recognize an intentional program violation determined in another state or political jurisdiction.

[Statutory Authority: RCW 74.04.050. 95-19-013 (Order 3894), § 388-49-670, filed 9/7/95, effective 10/6/95. Statutory Authority: RCW 74.04.510 and P.L. 103-66 section 13942. 94-16-043 (Order 3758), § 388-49-670, filed 7/27/94, effective 8/27/94. Statutory Authority: RCW 74.04.510. 89-12-034 (Order 2803), § 388-49-670, filed 6/1/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-670, filed 12/31/87.]

Chapter 388-51 WAC

JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM CHILD CARE AND OTHER WORK-RELATED SUPPORTIVE SERVICES AND TRANSITIONAL CHILD CARE

WAC

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-51-010 Child care and other work-related supportive services—Purpose. [Statutory Authority: 1991 c 16. 92-08-033, § 388-51-010, filed 3/24/92, effective 4/24/92. Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-010, filed 12/31/90, effective 1/31/91.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-020 Definitions. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-020, filed 5/27/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-020, filed 12/31/90, effective 1/31/91.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-040 Assurances and responsibilities under JOBS, income assistance, and transitional child care. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-040, filed 5/27/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-040, filed 12/31/90, effective 1/31/91.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-110 JOBS, income assistance, and transitional child care programs. [Statutory Authority: Family Support Act P.L.

100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-110, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-110, filed 3/24/92, effective 4/24/92.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-115 JOBS, income assistance, and transitional child care programs—Eligible children and recipients. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-115, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-115, filed 3/24/92, effective 4/24/92.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-120 JOBS, income assistance, and transitional child care program—Payment. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-120, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-120, filed 3/24/92, effective 4/24/92.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-123 JOBS, income assistance, and transitional child care programs—Effective dates. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-123, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-123, filed 3/24/92, effective 4/24/92.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-130 Income assistance and transitional child care programs—Effect on eligibility and payments. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-130, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-130, filed 3/24/92, effective 4/24/92.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-135 JOBS, income assistance, and transitional child care—Hearings. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-135, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-135, filed 3/24/92, effective 4/24/92.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-140 Income assistance child care program—Conversion. [Statutory Authority: 1991 c 16. 92-08-033, § 388-51-140, filed 3/24/92, effective 4/24/92.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-155 Transitional child care—Purpose and initial eligibility. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-155, filed 5/27/93, effective 7/1/93.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-160 Transitional child care—Co-payment. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-160, filed 5/27/93, effective 7/1/93.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-170 Transitional child care—Ongoing eligibility. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-170, filed 5/27/93, effective 7/1/93.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-180 Child care overpayments. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-180, filed 5/27/93, effective 7/1/93.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-210 Supportive services. [Statutory Authority: RCW 74.04.050 and 45 CFR 255.2 (c)(2)(i) and (3)(i). 95-03-047 (Order 3823), § 388-51-210, filed 1/11/95, effective 2/11/95. Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-210, filed 5/27/93, effective 7/1/93.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-220 One-time work-related expenses. [Statutory Authority: RCW 74.04.050 and 45 CFR 255.2 (c)(2)(i) and (3)(i). 95-03-047 (Order 3823), § 388-51-220, filed 1/11/95, effective 2/11/95.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-250 Transitional supportive services. [Statutory Authority: RCW 74.04.050 and 45 CFR 255.2 (c)(2)(i) and (3)(i). 95-03-047 (Order 3823), § 388-51-250, filed 1/11/95, effective 2/11/95. Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-250, filed 5/27/93, effective 7/1/93.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

388-51-260 Supportive services overpayments. [Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-260, filed 5/27/93, effective 7/1/93.] Repealed by 95-23-028 (Order 3916), filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f).

WAC 388-51-010 through 388-51-260 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-73 WAC

CHILD CARE AGENCIES—MINIMUM LICENSING/ CERTIFICATION REQUIREMENTS

WAC

WAC 388-73-014 Persons and organizations subject to licensing. Persons and organizations operating the following types of facilities are subject to licensing under chapter 74.15 RCW and RCW 74.08.044:

(1) "Group care facility for children" means an agency maintained and operated for the care of a group of children on a twenty-four-hour basis;

(2) "Child-placing agency" means an agency placing children for temporary care, continued care, or for adoption;

(3) "Maternity service" means an agency providing or arranging for care or services to expectant mothers regardless of age, before or during confinement, or providing care as needed to mothers and their infants after confinement. See WAC 388-73-702;

(4) "Day care facility" means an agency regularly providing care for children for periods of less than twenty-four hours. Separate requirements are adopted for the following subcategories of day care facilities:

(a) A "mini-day care program" means a day care facility for the care of twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care and supervision the children are placed; or

(b) A "day treatment program" means an agency providing care, supervision, and appropriate therapeutic and educational services during part of the twenty-four-hour day for a group of persons under eighteen years of age and the persons are unable to adjust to full-time regular or special school programs or full-time family living because of:

(i) Disruptive behavior;

(ii) Family stress;

(iii) Learning disabilities; or

(iv) Other serious emotional or social handicaps.

(5) "Foster family home" means a person or persons regularly providing care on a twenty-four-hour basis to one or more, but not more than four, children, expectant mothers, or developmentally disabled persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or developmentally disabled person is placed;

(6) "Large foster family home" means a foster family home with at least two adult residents in the home providing care on a twenty-four-hour basis to five or six children or developmentally disabled persons;

(7) "Crisis residential center" means an agency operating under contract with the department to provide temporary, protective care to children in a semisecure residential facility in the performance of duties specified and in the manner provided in RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036. Separate requirements are adopted for the following subcategories of crisis residential centers:

(a) A regional crisis residential center is a structured group care facility whose primary and exclusive functions are those of a crisis residential center;

(b) A group care facility functioning partially or exclusively as a crisis residential center;

(c) A foster family home functioning either partially or exclusively as a crisis residential center and has been designated as a crisis residential center by the department.

(8) A "facility for severely and multiply-handicapped children" means a group care facility providing residential care to a group of nonambulatory children whose severe, disabling, multiple physical, and/or mental handicaps will require intensive personal care, and may require skilled health care, physical therapy, or other forms of therapy;

(9) "Staffed residential home for children or expectant mothers" means a home providing twenty-four-hour care for less than seven children or expectant mothers. The home employs staff to care for children and may or may not be a family residence.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-014, filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.15.030. 92-08-056, § 388-73-014, filed 3/26/92, effective 4/26/92; 89-11-005 (Order 2796), § 388-73-014, filed 5/4/89; 86-24-059 (Order 2445), § 388-73-014, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-014, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-014, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-014, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-014, filed 9/8/78.]

WAC 388-73-058 Earnings, allowances, personal belongings. (1) Except for crisis residential centers, juvenile detention facilities staffed residential home for children, and foster family homes, full-time child care providers shall give each child a regular allowance based on age, needs, and ability to handle money.

(2) Group care facilities shall account for allowances given and for children's earnings, if any, in a ledger or other appropriate record maintained for this purpose.

(3) When a person is discharged, the licensee shall permit the person to take personal belongings and all of the person's money, or be fully informed about the transfer of the person's money to another facility.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-058, filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-058, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-058, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-058, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-058, filed 9/8/78.]

WAC 388-73-074 Social service staff. (1) Each child-placing agency, day treatment program, maternity service staffed residential home for children, and group care facility, except for juvenile detention facilities, shall provide or arrange for social services by persons at least one of whom has a master's degree in social work or closely allied field.

(2) Social service staff not having a master's degree in social work shall have a bachelor's degree in social work or closely allied field and shall receive face-to-face supervision by a person having a master's degree in social work or closely allied field for a minimum of one hour for each twenty hours of paid employment.

(3) When social services are provided by an agency other than the licensee, there shall be a written agreement

detailing the scope of service to be provided. Any such agreement must meet the requirements of this section.

(4) The licensee shall provide the following minimum ratios of full-time social service staff providing direct services to persons under care:

Day treatment program	1 to 15
Group care facilities	1 to 25
Child-placing agency	1 to 25
Maternity services	1 to 25
Regional and other group care crisis residential centers	1 to 5

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-074, filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-074, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-074, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-074, filed 9/8/78.]

WAC 388-73-076 Social study—Treatment plans. Except for juvenile detention facilities, the social service staff of each child-placing agency, day treatment program, maternity service staffed residential home for children, and group care facility shall:

(1) Develop or assemble from appropriate sources a written diagnostic social study on each child and expectant mother accepted for care. Except in the case of persons accepted for emergency care, the study shall serve as the basis of the person's admission to care. In such case, the study shall be completed within thirty days after admission if the person remains in care. The study shall contain in addition to the minimum information recorded as required by WAC 388-73-054 the following information:

(a) Child's school records, when possible. Where children attend school away from the facility, records mean grade placement, reports, and correspondence with schools. Where the facility has a school on the grounds, records shall mean transcripts and other records normally kept by a school.

(b) Copies of psychological or psychiatric evaluations, if any, of the child or expectant mother.

(c) A narrative description of the background of the child and his or her family, the child's interrelationships and the problems and behaviors necessitating care away from own home, previous placement history, if any, and an evaluation as to need for the particular services and type of care the licensee will provide. For American Indian children, see WAC 388-73-044.

(2) Develop and implement a written treatment plan for each person accepted for care. Such plan shall outline the agency's treatment goals and methods of work with the individual and his or her family. The plan shall be updated at least quarterly to show progress toward achievement of goals and shall identify impediments to the return of the child to his or her own home, the home of relatives, or placement for adoption and steps taken or to be taken to overcome those impediments. No person shall be admitted to nor retained in an agency's program where the person cannot be served effectively by the program or where the person can be served more appropriately by another available program.

(3) Whenever the treatment plan indicates the child may return to his or her own home, provide or arrange for services to child's parents. Where geographical or other conditions prevent the licensee from working directly with child's parents or another agency is already providing appropriate services, the licensee shall enter into an agreement with the agency for joint planning and exchange of reports toward the end of reuniting the family, or shall make arrangements with another appropriate agency toward that end.

(4) Whenever the treatment plan indicates the child will not be able to return to his or her own home, move expeditiously to develop a plan for permanence for the child. The permanent placement for the child shall be made in a family able to meet the child's physical, emotional, and cultural needs.

(5) Ensure agency records include a running account of the treatment received by the child and others involved in the treatment plan including but not limited to group treatment, individual counseling, etc., whether delivered by the agency or a contracted source. The file shall be updated no less frequently than once per thirty days.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-076, filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-076, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-076, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-076, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-076, filed 9/8/78.]

WAC 388-73-146 Care of younger or severely and multiply-handicapped children. This section is applicable only to mini-day care programs, group care facilities, and facilities for severely and multiply-handicapped children.

(1) A licensee shall not accept a child under one month of age for day care.

(2) Facilities licensed to care for thirteen or more children shall provide separate, safe play areas for children under one year of age or children not walking. Children under one year of age shall be cared for in rooms or areas separate from older children, as approved by the department with not more than eight such children to a room or area and with handwashing facilities in each such room or area or convenient thereto.

(3) Diaper changing. The provider shall ensure:

(a) Diaper-changing areas shall be sanitized between use for different children or protected by a moisture impervious (or not absorbent) disposable covering discarded after each use;

(b) Disposable towels or clean reusable towels having been laundered between children shall be used for cleaning children;

(c) Personnel shall wash hands before and after diapering each child;

(d) Diaper-changing areas shall be separate from food preparation areas and shall be adjacent to a handwashing sink; and

(e) The designated changing area shall be impervious to moisture and washable.

(4) Except for foster family homes, the provider shall use disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family. Soiled diapers shall be placed without rinsing into separate, cleanable, covered containers provided with waterproof liners

prior to transport to laundry, parent, or acceptable disposal. Soiled diapers shall be removed from the facility at least daily. Diaper-changing procedures shall be posted at the changing areas.

(5) The agency shall initiate the child's toilet training when readiness is indicated by the child and in consultation with the child's parents or placement agency. Potty chairs, when in use, shall be located on washable, impervious surfaces.

(6) When the agency formula feeds infants under one year of age, the infants shall be on a formula feeding schedule agreed upon by the child's parent or parents, guardian, the placement agency, and the licensee. When the agency formula feeds severely and multiply-handicapped children, the children shall be on a schedule agreed upon by the children's physician and the facility's dietitian (see WAC 388-73-144(8)).

(a) Feedings prepared on the premises of the facility.

(i) Any child's formula provided by the parent or parents, guardian, placement agency, or licensee shall be in a ready-to-feed strength or require no preparation other than dilution with water at the day care facility.

(ii) If the container in which the feeding was purchased does not include a sanitized bottle and nipple, the agency shall transfer ready-to-feed formula from the bulk container to the bottle and nipple feeding unit in a sanitary manner in an area separate from diapering areas.

(iii) The agency shall refrigerate filled bottles if bottles are not used immediately and the contents shall be discarded if bottles are not used within twelve hours.

(iv) If bottles and nipples are reused by the facility, the agency shall sanitize the bottles and nipples.

(v) When more than one bottle-fed child is in care, the agency shall label the bottles with the child's name and date prepared. The agency shall pour milk for children requiring bottles but no longer on formula from the original container into sanitized, labeled bottles. The agency shall use sanitized nipples only on the bottles.

(b) Feedings brought to the child care facility.

(i) When the parent brings bottles into the facility, the bottles shall have a label showing the child's name.

(ii) The agency shall refrigerate bottles immediately upon their arrival at the facility and the agency shall discard the bottle contents if not used within twelve hours.

(c) Bottles shall not be propped. The agency shall provide semisolid foods for infants at between four and five months of age, upon consultation with the parent or placement agency, and/or with a physician when indicated. Infants too young or unable to sit in high chairs shall be held by the care giver in a semisitting position for all feedings unless medically contraindicated. Infants six months of age or over showing a preference for holding their own bottles may do so provided an adult remains in the room and within observation range. The agency shall take bottles from the child when the child finishes feeding or when the bottle is empty. See also WAC 388-73-144.

(7) Cribs.

(a)(i) Providers shall furnish single level infant cribs made of wood, metal, or approved plastic with secure latching devices. Such infant cribs shall also have no more than two and three-eighths inches space between vertical slats when used for infants under six months of age.

(ii) For infants, providers may use cribs not meeting the spacing requirement provided crib bumpers or other effective methods are used to prevent the infant's body from slipping between the slats.

(b) Infants' crib mattresses shall be:

(i) Snug fitting to prevent the infant or severely and multiply-handicapped child being caught between the mattress and crib side rails; and

(ii) Waterproof and easily sanitized.

(8) Children's activities.

(a) The facility shall provide infants and severely and multiply-handicapped children opportunities for:

(i) Exercise;

(ii) Large and small muscle development;

(iii) Crawling and exploring;

(iv) Sensory stimulation;

(v) Social interaction; and

(vi) Development of communication and self-help skills.

(b) The facility shall provide safe and suitable toys and equipment for the care of infants and severely and multiply-handicapped children.

(9) The licensee shall prohibit smoking in a foster home caring for infants and/or medically fragile children and in a motor vehicle when the licensee transports such children. The licensee may permit smoking outdoors on the premises away from the building, where the child is not present.

(10) Nursing consultation.

(a) Except for facilities caring for severely and multiply-handicapped children requiring a registered nurse on staff or under contract, facilities licensed for the care of four or more infants shall arrange for regular consultation to include at least one monthly on-site visit by a registered nurse trained or experienced in the care of young children.

(b) In collaboration with the agency's administrative staff, the nurse shall advise the agency on the:

(i) Operation of the infant care program; and

(ii) Implementation of the child health program.

(c) The agency's written agreement with the registered nurse shall be available in the facility.

(d) The agency shall document the nurse's on-site visits.

(e) The nurse's name and telephone number shall be posted or otherwise available in the agency.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-146, filed 11/8/95, effective 12/9/95. Statutory Authority: RCW 74.15.030. 92-08-056, § 388-73-146, filed 3/26/92, effective 4/26/92; 89-11-005 (Order 2796), § 388-73-146, filed 5/4/89; 86-24-059 (Order 2445), § 388-73-146, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-146, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-146, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-146, filed 9/8/78.]

WAC 388-73-351 Staffed residential homes for children or expectant mothers. The rules in WAC 388-73-351 through 388-73-399 apply only to licensing staffed residential homes.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-351, filed 11/8/95, effective 12/9/95.]

WAC 388-73-353 Agency affiliation. A staffed residential home for children or expectant mothers shall only operate under the auspices of and/or contract with a licensed

child placing agency or the department. The agency shall provide social services as required under WAC 388-73-074 and 388-73-076.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-353, filed 11/8/95, effective 12/9/95.]

WAC 388-73-355 Function of staffed residential home for children or expectant mothers. A staffed residential child care home shall normally serve children who:

(1) Need foster care but may not ordinarily adjust to the close, personal relationships normally found in a foster family home; or

(2) Are emotionally disturbed or physically or mentally handicapped, or medically fragile, or whose behavior is inappropriate for foster family care.

(3) The home, through its own program or by arrangement with appropriate community resources, shall provide the necessary specialized services required by the group which the facility services.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-355, filed 11/8/95, effective 12/9/95.]

WAC 388-73-357 Capacity. (1) A staffed residential home for children or expectant mothers shall be licensed for the care of not more than six children.

(2) A staffed residential home for children or expectant mothers having only one staff on duty shall not care for more than four children. An additional staff person shall be required to care for more than four children.

(3) A staffed residential home for children or expectant mothers shall not be licensed for more than three expectant or parenting mothers.

(4) A staffed residential home for children or expectant mothers shall not be licensed for more than two children under two years of age, except for a home caring for expectant or parenting mothers.

(5) A staffed residential home for children or expectant mothers shall not be licensed for the care of more than three persons experiencing mental or physical handicaps of such severity as to require nursing care, and then only if the:

(a) Licensee provides staff who are qualified by training related to the administration of the required medical procedures and relevant experience to provide proper care; and

(b) The person's treatment is under the supervision of a physician.

(6) A staffed residential home for children or expectant mothers may be licensed for the care of more than two nonambulatory persons whether that condition is due to age or physical or mental impairment if it is in compliance with WAC 388-73-371 through 388-73-395.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-357, filed 11/8/95, effective 12/9/95.]

WAC 388-73-361 Required positions. A staffed residential home for children or expectant mothers shall provide staff in accordance with the following requirements:

(1) A director responsible for the general management and administration of the agency's program. This person shall:

(a) Be twenty-five years of age or older;

(b) Possess an ability to understand the role of the agency in meeting the needs of children;

(c) Work with representatives of appropriate agencies;

(d) Have:

(i) A bachelor's degree in a social science or closely allied field and two years successful, full-time experience working in a group care facility for children; or

(ii) A minimum of five years' successful, full-time experience:

(A) Working in a group care facility for children in an administrative or child care capacity; or

(B) As a foster parent with a letter of recommendation from the licensing agency and/or supervising agency.

(e) Have a year's successful experience working with children in the age group and with same problems as the population in care or have training (e.g., a college course or multiple workshops) on working with children with the specific problems, unless another staff member has the experience or training;

(f) The director, or a person meeting the same qualifications, shall be on the premises during daytime hours when children are in care; and

(g) Be responsible for the administration of the agency including supervision of the staff, program planning, and overseeing the implementation of the plan of care or treatment for each child in care.

(2) Child care staff whose primary duties are the care, supervision, and guidance of children. Such staff shall be at least eighteen years of age. Staff under twenty-one years of age shall be under the immediate supervision of staff at least twenty-one years of age.

(a) During the nighttime hours there shall be at least one awake child care staff member on duty. (The requirement for an awake staff may be waived when there are fewer than three children in care and these children do not require intensive supervision due to behavioral or medical problems.)

The director and support and maintenance staff may serve as child care staff, if qualified, when not involved in other duties, provided the required number of child care staff is maintained.

(b) When only one child care staff is on duty, a second person shall be on call and available to respond within one half-hour.

(3) The agency shall have relief staff to enable all staff to have the equivalent of two days a week off.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-361, filed 11/8/95, effective 12/9/95.]

WAC 388-73-363 Nursing services. (1) A staffed residential home for children or expectant mothers home having as its major purpose the care of chronically ill or severely handicapped children shall make arrangements for regular nursing consultation, including regular visits (not less frequent than monthly) or as prescribed in the contract and the individual child's treatment plan, by a registered nurse currently licensed in the state of Washington.

(2) The nurse's name, address, and telephone number shall be readily available. The nurse shall assist the agency in implementing a program which provides for periodic health supervision of all children and for follow-up care of

special health needs as identified by the child's physician or noted by agency personnel.

(3) The nurse shall advise and assist nonmedical personnel in maintaining child health records, meeting daily health needs and caring for children with minor illnesses and injuries.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-363, filed 11/8/95, effective 12/9/95.]

WAC 388-73-365 Required rooms, areas, and equipment. The facility shall provide rooms of sufficient size and properly equipped to accommodate the number of children served and their special needs. The facility shall provide the following rooms or areas:

(1) Bedrooms (per WAC 388-73-106), except that bedrooms housing children requiring medical equipment shall have additional space for that equipment.

(2) Living room. There shall be at least one comfortable furnished living room.

(3) Dining area. A dining room area shall be provided with sufficient capacity to accommodate the group comfortably and furnished appropriate.

(4) Staff quarters. Room for staff on night supervision shall be separate from but in proximity to the sleeping rooms of the children.

(5) Recreation area. The agency shall provide at least one separate indoor area, sufficient in size and location, for recreational and informal education activities. This may be a dual purpose room.

(6) Office. The agency shall provide a room or area that can be used as an administrative office.

(7) Visiting area. The agency shall provide space where privacy can be achieved for the use of visitors.

(8) Some area/rooms may have multiple uses (e.g., dining room and recreation area, visiting area, and living room).

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-365, filed 11/8/95, effective 12/9/95.]

WAC 388-73-367 Staffed residential homes for children or expectant mothers—Services to person under care. (1)(a) A staffed residential child care home shall provide or arrange for such care and supervision as the age and physical condition of the persons under care require and shall include transportation and the teaching of social and living skills.

(b) The facility shall provide opportunities for play and recreation. Staff shall encourage persons in care to participate in community and culturally relevant activities in accord with the person's capacity for such experience.

(2) The agency shall submit a:

(a) Written program description for departmental approval including a list of services to be provided to the residents and their families and how and by whom these services will be provided; and

(b) Schedule of typical daily activities for persons in care.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-367, filed 11/8/95, effective 12/9/95.]

WAC 388-73-369 Fire safety—Staffed residential child care home for children or expectant mothers. (1) A staffed residential home for children or expectant mothers shall comply with the fire safety requirements in WAC 388-73-310.

(2) A staffed residential home for children or expectant mothers caring for more than two nonambulatory children shall comply with the fire safety requirements in WAC 388-73-371 through 388-73-395.

(3) A home caring for six children shall comply with the applicable sections of the Uniform Building Code.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-369, filed 11/8/95, effective 12/9/95.]

WAC 388-73-371 Location of care. (1) The licensee shall ensure that care in a staffed residential home for children or expectant mothers caring for more than two nonambulatory children shall be provided on one floor which is at ground level.

(2) Floors located more than four feet above or below grade level shall not be used for child care.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-371, filed 11/8/95, effective 12/9/95.]

WAC 388-73-373 Occupancy separations. (1) Hazardous area shall be separated from the staffed residential home for children or expectant mothers facility by at least a one-hour fire-resistive occupancy separation.

(2) Hazardous areas include rooms or spaces containing a commercial-type cooking kitchen, boiler, maintenance shop, janitor closet, laundry, woodworking shop, flammable or combustible material, or painting operation.

(3) A fire-resistive separation shall not be required where the food preparation kitchen contains only a domestic cooking range, and the preparation of food does not result in the production of smoke or grease laden vapors.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-373, filed 11/8/95, effective 12/9/95.]

WAC 388-73-375 Exits. (1) At least one exit door shall be of the pivoted or side-hinged swinging type. Other exit doors may be sliding doors.

(2) Each facility used for child care purposes shall be provided with two exits, located at opposite ends of the building or floor.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-375, filed 11/8/95, effective 12/9/95.]

WAC 388-73-377 Windows. (1) Every sleeping or napping room shall have at least one operable window for emergency rescue with the exception of sleeping or napping rooms having doors leading to two separate exit ways, or a door leading directly to the exterior of the building.

(2) All escape or rescue windows shall have a minimum net clear openable area of 5.7 square feet. The minimum net clear openable height dimension shall be twenty-four inches. The minimum net clear openable width dimension shall be twenty inches. When windows are provided as a means of escape or rescue they shall have a finished sill height not

more than forty-four inches above the floor. A stationary platform may be used to attain the forty-four inch sill height.

(3) Bars, grilles, grates, or similar devices may be installed on emergency escape or rescue window or doors, provided the devices are equipped with approved release mechanisms which are openable from the inside without the use of a key or special knowledge or effort.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-377, filed 11/8/95, effective 12/9/95.]

WAC 388-73-379 Sprinklers. The requirement for one of the two exits may be deleted if a residential sprinkler system is provided throughout the entire building in accordance with National Fire Protection Association Standard 13d and the remaining exit is a door.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-379, filed 11/8/95, effective 12/9/95.]

WAC 388-73-381 Accessibility of exits. (1) Exit doors and rescue windows shall be easily openable to the full open position.

(2) Exit doors and rescue windows shall be openable from the inside without having to use a key. Night latches, dead bolts, security chains, manually operated edge or surface mounted flush bolts and surface bolts shall not be used. The locking arrangement on outside exit doors should be such that they will automatically unlock when the doorknob is turned from the inside.

(3) Obstructions shall not be placed in corridors, aisles, doorways, exit doors, stairways, ramps, or rescue windows.

(4) No space which is accessible only be ladder, folding stairs, or trap doors shall be used for staffed residential homes for children or expectant mothers.

(5) Every bathroom door lock shall be designed to permit the opening of the locked door from the outside in an emergency. The opening device shall be readily accessible to the staff.

(6) Every closet door latch shall be such that children can open the door from the inside of the closet.

(7) Barriers to exiting shall be restricted to gates or other approved devices that are easily openable and do not delay exiting.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-381, filed 11/8/95, effective 12/9/95.]

WAC 388-73-383 Single station smoke detectors. (1) Smoke detectors shall be located in all sleeping and napping rooms in and at a point centrally located in the corridor or area giving access to each separate sleeping or napping area.

(2) Where the ceiling height of a room open to the hallway serving the sleeping or napping rooms exceeds that of the hallway by twenty-four inches or more, smoke detectors shall be installed in the hallway and in the adjacent room.

(3) Detectors shall sound an alarm audible in all sleeping and napping areas of the facility in which they are located. The minimum acceptable audibility level is sixty decibels.

(4) In new construction, required smoke detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source and shall be equipped with a battery backup. The detector shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.

(5) Smoke detectors may be solely battery operated when installed in existing buildings or buildings without commercial power.

(6) Single station smoke detectors shall be tested at monthly intervals or in a manner specified by the manufacturer. Records of such testing shall be maintained upon the premises.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-383, filed 11/8/95, effective 12/9/95.]

WAC 388-73-385 Fire extinguishers. (1) The licensee shall provide: At least one approved two A, ten B:C rated fire extinguisher. Such extinguisher(s) shall be located in the area of the normal path of egress. The maximum travel distance to an extinguisher shall not exceed seventy-five feet. Where the travel distance exceeds seventy-five feet, an additional extinguisher(s) shall be required.

Approved two A, ten B:C rated means a fire extinguisher with an Underwriters Laboratory label on the nameplate classifying the extinguisher as two A, ten B:C rated. These extinguishes are usually multi-purpose five-pound dry chemical units.

(2) Fire extinguishers shall be operationally ready for use at all times.

(3) Fire extinguishers shall be kept on a shelf or mounted in a bracket provided for this purpose so that the top of the extinguisher is not more than five feet above the floor.

(4) Fire extinguishers shall receive yearly maintenance certification by a firm specializing in such work and licensed to do business in the state of Washington. Maintenance means a thorough check of the extinguisher to include examination of:

(a) Mechanical parts;

(b) Extinguishing agent; and

(c) Expelling means.

(5) New fire extinguishers need not receive an additional certification test during the first year.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-385, filed 11/8/95, effective 12/9/95.]

WAC 388-73-387 Fire prevention. (1) The licensee shall request the local fire department to visit the child care home to assist care givers in meeting all necessary fire safety requirements and become familiar with the home.

(2) The licensee shall assure that furnace rooms are maintained free of lint, grease, and rubbish accumulations and are suitably isolated, enclosed, or protected.

(3) Flammable or combustible materials shall be stored away from exits and in areas which are not accessible to children. Combustible rubbish should shall not be allowed to accumulate and should be removed from the building or stored in closed, metal containers.

(4) All waste generated shall be removed daily from the building and disposed of in a safe manner outside the

building. All containers used for the disposal of waste material be of noncombustible materials with tops. Electrical motors shall be kept dust-free.

(5) Open-flame devices capable of igniting clothing shall not be left on, unattended or used in a manner which could result in an accidental ignition of children's clothing. Candles shall not be used.

(6) All electrical circuits, devices and appliances shall be properly maintained. Circuits shall not be overloaded. Extension cords and multi-plug adapters shall not be used in lieu of permanent wiring and proper receptacles.

(7) House numbers shall be clearly visible from the street or road fronting the property and contrast with their background. Where the home is not clearly visible from the road, the address shall be posted at the head of the driveway.

(8) Fireplaces, woodstoves, and all other similar devices must be installed and approved according to the rules that were in effect at the time of installation as evidenced by a local building permit. Such devices shall be properly maintained and shall be cleaned and certified at least once a year or as recommended by the manufacturer.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-387, filed 11/8/95, effective 12/9/95.]

WAC 388-73-389 Sprinkler system maintenance. Sprinkler systems, if installed, shall be tested and certified yearly by a Washington state licensed fire sprinkler contractor.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-389, filed 11/8/95, effective 12/9/95.]

WAC 388-73-391 Fire evacuation plan. The licensee shall develop a written fire evacuation plan. The evacuation plan shall include an evacuation floor plan, identifying exit doors and windows, that should be posted at each exit door. The licensee shall ensure the plan includes the:

(1) Action to take by the person discovering a fire;

(2) Methods for sounding an alarm on the premises;

(3) Action to take for evacuation of the building, assuring accountability of the children; and

(4) Action to take pending arrival of the fire department.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-391, filed 11/8/95, effective 12/9/95.]

WAC 388-73-393 Fire evacuation drill. The licensee shall:

(1) Conduct a fire evacuation drill at least once each month; and

(2) Maintain a written record on the premises indicating the date, time, and other required entries on the form.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-393, filed 11/8/95, effective 12/9/95.]

WAC 388-73-395 Staff fire safety training. (1) The licensee and each employee or assistant shall be familiar with all elements of the fire evacuation plan and shall be capable of:

(a) Operating fire extinguishers installed on the premises;

(b) Testing smoke detectors (single station types); and

(c) Conducting frequent inspections of the home to identify fire hazards and take action to correct any hazards noted during the inspection.

(2) The licensee shall conduct such inspections on at least a monthly basis and keep records on the premises.

[Statutory Authority: Chapter 74.15 RCW. 95-23-033 (Order 3918), § 388-73-395, filed 11/8/95, effective 12/9/95.]

Chapter 388-77 WAC
FAMILY INDEPENDENCE PROGRAM

WAC

388-77-005 through 388-77-900 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-77-005 General provisions. [Statutory Authority: 1990 1st ex.s. c 6. 90-12-059 (Order 3017), § 388-77-005, filed 5/31/90, effective 7/1/90. Statutory Authority: Chapter 74.21 RCW. 89-03-053 (Order 2757), § 388-77-005, filed 1/13/89; 88-18-024 (Order 2683), § 388-77-005, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-005, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-006 Freezing enrollments. [Statutory Authority: 1990 1st ex.s. c 6. 90-12-059 (Order 3017), § 388-77-006, filed 5/31/90, effective 7/1/90.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-010 Definition. [Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010, 91-05-058 and 91-08-050 (Orders 3113, 3113A, 3113AA, 3113AAA and 3113AAAA), § 388-77-010, filed 12/14/90, 1/31/91, 2/7/91, 2/15/91 and 4/1/91, effective 2/1/91, 2/7/91, 2/15/91, 4/1/91 and 5/1/91. Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-010, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-015 Applications and assessment. [Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-015, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-015, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-045 Verification. [Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-045, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-200 Family independence program (FIP)—Summary of Title IV-A eligibility conditions. [Statutory Authority: 1990 1st ex.s. c 6. 90-12-059 (Order 3017), § 388-77-200, filed 5/31/90, effective 7/1/90. Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-200, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-210 Assistance unit. [Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-210, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-240 FIP—Eligibility for qualifying a parent. [Statutory Authority: RCW 74.21.070. 91-19-024 (Order 3244), § 388-77-240, filed 9/10/91, effective 10/11/91. Statutory Authority: RCW 74.50.010. 89-12-036 (Order 2805), § 388-77-240, filed 6/1/89. Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-240, filed

6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-255 FIP—Employment and training requirements. [Statutory Authority: Chapter 74.21 RCW. 89-23-084 (Order 2902), § 388-77-255, filed 11/17/89, effective 12/18/89; 88-12-093 (Order 2630), § 388-77-255, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-270 Support. [Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-270, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-270, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-285 Assistance to minors. [Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-285, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-320 Resources—Exempt. [Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010, 91-05-058 and 91-08-050 (Orders 3113, 3113A, 3113AA, 3113AAA and 3113AAAA), § 388-77-320, filed 12/14/90, 1/31/91, 2/7/91, 2/15/91 and 4/1/91, effective 2/1/91, 2/7/91, 2/15/91, 4/1/91 and 5/1/91. Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-320, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-500 Income—Determination of need. [Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010, 91-05-058 and 91-08-050 (Orders 3113, 3113A, 3113AA, 3113AAA and 3113AAAA), § 388-77-500, filed 12/14/90, 1/31/91, 2/7/91, 2/15/91 and 4/1/91, effective 2/1/91, 2/7/91, 2/15/91, 4/1/91 and 5/1/91. Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-500, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-500, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-515 Income—Exempt. [Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010, 91-05-058 and 91-08-050 (Orders 3113, 3113A, 3113AA, 3113AAA and 3113AAAA), § 388-77-515, filed 12/14/90, 1/31/91, 2/7/91, 2/15/91 and 4/1/91, effective 2/1/91, 2/7/91, 2/15/91, 4/1/91 and 5/1/91. Statutory Authority: Chapter 74.21 RCW. 90-12-042 (Order 2984), § 388-77-515, filed 5/31/90, effective 7/1/90; 88-12-093 (Order 2630), § 388-77-515, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-520 Income—Deductions. [Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010, 91-05-058 and 91-08-050 (Orders 3113, 3113A, 3113AA, 3113AAA and 3113AAAA), § 388-77-520, filed 12/14/90, 1/31/91, 2/7/91, 2/15/91 and 4/1/91, effective 2/1/91, 2/7/91, 2/15/91, 4/1/91 and 5/1/91. Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-520, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-525 Income—Self-employment. [Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-525, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-531 Non recurring lump-sum income. [Statutory Authority: RCW 74.21.070. 91-15-086 (Order 3207), § 388-77-531, filed 7/23/91, effective 8/23/91.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-555 Earned income reporting. [Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010, 91-05-058 and 91-08-050 (Orders 3113, 3113A, 3113AA, 3113AAA and 3113AAAA), § 388-77-555, filed 12/14/90, 1/31/91, 2/7/91, 2/15/91 and 4/1/91, effective 2/1/91, 2/7/91, 2/15/91, 4/1/91 and 5/1/91. Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-555, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-600 Standards of assistance—Hold harmless. [Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010, 91-05-058 and 91-08-050 (Orders 3113, 3113A, 3113AA, 3113AAA and 3113AAAA), § 388-77-600, filed 12/14/90, 1/31/91, 2/7/91, 2/15/91 and 4/1/91, effective 2/1/91, 2/7/91, 2/15/91, 4/1/91 and 5/1/91. Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-600, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-600, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-605 Standards of assistance—Benchmark standard. [Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-605, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-610 Standards of assistance—Incentive standards. [Statutory Authority: RCW 74.21.070. 91-13-081 (Order 3192), § 388-77-610, filed 6/18/91, effective 7/19/91; 91-01-062, 91-04-041, 91-05-010, 91-05-058 and 91-08-050 (Orders 3113, 3113A, 3113AA, 3113AAA and 3113AAAA), § 388-77-610, filed 12/14/90, 1/31/91, 2/7/91, 2/15/91 and 4/1/91, effective 2/1/91, 2/7/91, 2/15/91, 4/1/91 and 5/1/91. Statutory Authority: Chapter 74.21 RCW. 89-03-053 (Order 2757), § 388-77-610, filed 1/13/89; 88-18-024 (Order 2683), § 388-77-610, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-610, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-615 Standards of assistance—Payment amounts. [Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010, 91-05-058 and 91-08-050 (Orders 3113, 3113A, 3113AA, 3113AAA and 3113AAAA), § 388-77-615, filed 12/14/90, 1/31/91, 2/7/91, 2/15/91 and 4/1/91, effective 2/1/91, 2/7/91, 2/15/91, 4/1/91 and 5/1/91. Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-615, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-735 Suspension of FIP cash assistance. [Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-735, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-737 FIP transitional benefits. [Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-737, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-810 Periodic review and redetermination of eligibility. [Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-810, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-820 Food assistance. [Statutory Authority: Chapter 74.21 RCW. 89-21-048 (Order 2879), § 388-77-820, filed 10/13/89, effective 11/13/89; 89-03-053 (Order 2757), § 388-77-820, filed 1/13/89; 88-18-025 (Order 2684), § 388-77-820, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-820, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77-900 Overpayments. [Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-900, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-900, filed 6/1/88.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

WAC 388-77-005 through 388-77-900 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-77A WAC
FAMILY INDEPENDENCE PROGRAM EXPIRATION

WAC

388-77A-010 through 388-77A-055 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-77A-010 Purpose. [Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-010, filed 5/27/93, effective 7/1/93.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77A-020 Benefit change limitations. [Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-020, filed 5/27/93, effective 7/1/93.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77A-030 Standards of assistance—Family independence program (FIP) households entitled to employment incentive payments earned in May and June 1993. [Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-030, filed 5/27/93, effective 7/1/93.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77A-040 Transitional child care. [Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-040, filed 5/27/93, effective 7/1/93.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77A-041 Medical benefits. [Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-041, filed 5/27/93, effective 7/1/93.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77A-050 Fair hearing—Continuation of benefits. [Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-050, filed 5/27/93, effective 7/1/93.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

388-77A-055 Pretermination redetermination. [Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-055, filed 5/27/93, effective 7/1/93.] Repealed by 95-18-002 (Order 3881), filed 8/23/95, effective 9/23/95. Statutory Authority: RCW 74.21.904.

WAC 388-77A-010 through 388-77A-055 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-86 WAC
MEDICAL CARE—SERVICES PROVIDED

WAC

388-86-005 Services available to recipients of categorically needy medical assistance.
388-86-009 Repealed.
388-86-00902 Repealed.
388-86-020 Repealed.
388-86-021 Repealed.
388-86-022 School medical services for special education students.
388-86-030 Vision care.
388-86-073 Occupational therapy.
388-86-075 Outpatient and emergency care.
388-86-090 Physical therapy.
388-86-098 Speech therapy services.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-86-009 Voluntary prepaid health plans. [Statutory Authority: RCW 74.08.090. 88-12-089 (Order 2627), § 388-86-009, filed 6/1/88; 87-06-001 (Order 2468), § 388-86-009, filed 2/19/87; 86-17-021 (Order 2401A), § 388-86-009, filed 8/12/86; 86-16-045 (Order 2401), § 388-86-009, filed 8/1/86; 86-03-046 (Order 2327), § 388-86-009, filed 1/15/86.] Repealed by 95-18-046 (Order 3886), filed 8/29/95, effective 9/1/95. Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18.

388-86-00902 Mandatory prepaid health care plans. [Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-86-00902, filed 8/11/93, effective 9/11/93; 92-13-029 (Order 3401), § 388-86-00902, filed 6/9/92, effective 7/10/92.] Repealed by 95-18-046 (Order 3886), filed 8/29/95, effective 9/1/95. Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18.

388-86-020 Dental services. [Statutory Authority: 1987 1st ex.s. c 7. 88-02-034 (Order 2580), § 388-86-020, filed 12/31/87. Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-86-020, filed 12/27/85; 82-23-005 (Order 1900), § 388-86-020, filed 11/4/82; 81-10-015 (Order 1647), § 388-86-020, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-020, filed 10/9/80; 79-06-034 (Order 1402), § 388-86-020, filed 5/16/79; 78-02-024 (Order 1265), § 388-86-020, filed 1/13/78; Order 1162, § 388-86-020, filed 10/13/76; Order 1112, § 388-86-020, filed 4/15/76; Order 938, § 388-86-020, filed 5/23/74; Order 738, § 388-86-020, filed 11/22/72; Order 696, § 388-86-020, filed 6/29/72; Order 581, § 388-86-020, filed 7/20/71; Order 453, § 388-86-020, filed 5/20/70, effective 6/20/70; Order 385, § 388-86-020, filed 8/27/69; Order 264 (part), § 388-86-020, filed 11/27/67.] Repealed by 96-01-006 (Order 3931), filed 12/6/95, effective 1/6/96. Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090.

388-86-021 Dentures. [Statutory Authority: RCW 74.08.090. 93-11-048 (Order 3543), § 388-86-021, filed 5/12/93, effective 6/1/93; 90-12-046 (Order 2988), § 388-86-021, filed 5/31/90, effective 7/1/90; 88-15-010 (Order 2649), § 388-86-021, filed 7/8/88; 81-16-033 (Order 1685), § 388-86-021, filed 7/29/81.] Repealed by 96-01-006 (Order 3931), filed 12/6/95, effective 1/6/96. Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090.

WAC 388-86-005 Services available to recipients of categorically needy medical assistance. (1) The department shall provide the following Title XIX mandatory services:

(a) Early and periodic screening diagnosis and treatment services to an eligible person twenty years of age or under;

(b) Family planning services;

(c) Federally qualified health center services;

(d) Home health agency services;

(e) Inpatient and outpatient hospital care;

(f) Medicare certified rural health clinic services;

(g) Other laboratory and x-ray services;

(h) Skilled nursing home care;

(i) Certified registered nurse practitioner services; and

(j) Physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) The department shall provide the following Title XIX optional services:

(a) Anesthesia services;

(b) Blood;

(c) Chiropractic services;

(d) Drugs and pharmaceutical supplies;
(e) Eyeglasses and examination;
(f) Hearing aids and examinations;
(g) Hospice services;
(h) Licensed midwife services;
(i) Maternity support services;
(j) Oxygen;
(k) Personal care services;
(l) Physical therapy services;
(m) Private duty nursing services;
(n) Surgical appliances;
(o) Prosthetic devices and certain other aids to mobility; and
(p) Dental services.

(3) The department shall limit organ transplants to the cornea, heart, heart-lung, kidney, kidney-pancreas, liver, pancreas, single lung, and bone marrow.

(4) The department shall provide treatment, dialysis, equipment, and supplies for acute and chronic nonfunctioning kidneys when the client is in the home, hospital, or kidney center as described under WAC 388-86-050(12).

(5) The department shall provide detoxification and medical stabilization to chemically using pregnant women in a hospital.

(6) The department shall provide detoxification of acute alcohol or other drug intoxication only in a certified detoxification center or in a general hospital having a detoxification provider agreement with the department.

(7) The department shall provide outpatient chemical dependency treatment in programs qualified under chapter 275-25 WAC and certified under chapter 275-19 WAC or its successor.

(8) For services available under the:

(a) Limited casualty program-medically needy, see chapter 388-529 WAC; and

(b) Limited casualty program-medically indigent, see chapter 388-529 WAC.

(9) The department may require a second opinion and/or consultation before the approval of any elective surgical procedure.

(10) The department shall designate diagnoses that may require surgical intervention:

(a) Performed in other than a hospital in-patient setting; and

(b) Requiring prior approval by the department for a hospital admission.

(11) The department shall assure the availability of necessary transportation to and from medical services covered under a client's medical program.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-86-005, filed 10/25/95, effective 10/28/95; 93-17-038 (Order 3620), § 388-86-005, filed 8/11/93, effective 9/11/93; 92-03-084 (Order 3309), § 388-86-005, filed 1/15/92, effective 2/15/92; 90-17-122 (Order 3056), § 388-86-005, filed 8/21/90, effective 9/21/90; 90-12-051 (Order 3009), § 388-86-005, filed 5/31/90, effective 7/1/90; 89-18-033 (Order 2860), § 388-86-005, filed 8/29/89, effective 9/29/89; 89-13-005 (Order 2811), § 388-86-005, filed 6/8/89; 88-06-083 (Order 2600), § 388-86-005, filed 3/2/88. Statutory Authority: 1987 1st ex.s. c 7. 88-02-034 (Order 2580), § 388-86-005, filed 12/31/87. Statutory Authority: RCW 74.08.090. 87-12-050 (Order 2495), § 388-86-005, filed 6/1/87; 84-02-052 (Order 2060), § 388-86-005, filed 1/4/84; 83-17-073 (Order 2011), § 388-86-005, filed 8/19/83; 83-01-056 (Order 1923), § 388-86-005, filed 12/15/82; 82-10-062 (Order 1801), § 388-86-005, filed 5/5/82; 82-01-001 (Order 1725), § 388-86-005, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-005, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-005, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-005, filed 10/9/80; 78-06-081 (Order 1299), § 388-86-005, filed 6/1/78; 78-02-024 (Order 1265), § 388-86-005, filed 1/13/78; Order 994, § 388-86-005, filed 12/31/74; Order 970, § 388-86-005, filed 9/13/74; Order 911, § 388-86-005, filed 3/1/74; Order 858, § 388-86-005, filed 9/27/73; Order 781, § 388-86-005, filed 3/16/73; Order 738, § 388-86-005, filed 11/22/72; Order 680, § 388-86-005, filed 5/10/72; Order 630, § 388-86-005, filed 11/24/71; Order 581, § 388-86-005, filed 7/20/71; Order 549, § 388-86-005, filed 3/31/71, effective 5/1/71; Order 453, § 388-86-005, filed 5/20/70, effective 6/20/70; Order 419, § 388-86-005, filed 12/31/69; Order 264 (part); § 388-86-005, filed 11/24/67.]

WAC 388-86-009 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-86-00902 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-86-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-86-021 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-86-022 School medical services for special education students. (1) The department shall pay school districts or educational service districts (ESD) for medical services to an eligible categorically needy or medically needy child when a school district or ESD furnishes the medical services to a special education student as part of the child's individualized education program (IEP) or individualized family service plan (IFSP).

(2) Such medical services shall be provided by:

(a) Qualified Medicaid providers as described under WAC 388-87-005;

(b) Psychologists, licensed by the state of Washington or granted an educational staff associate certificate (ESA) by the state board of education; or

(c) A person trained and supervised by a:

(i) Licensed registered nurse;

(ii) Licensed physical therapist or physiatrist;

(iii) Licensed occupational therapist; or

(iv) Speech pathologist or audiologist who:

(A) Has been granted a certificate of clinical competence by the American speech, hearing, and language association;

(B) Is a person who completed the equivalent educational and work experience necessary for such a certificate; or

(C) Is a person who has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(d) School guidance counselors, or school social workers, who have been granted an educational staff associate (ESA) certificate by the state board of education.

(3) For a client to receive services as described under this section, the department shall not require the client to have a provider prescription.

(4) The department shall require recommendations and referrals to be updated at least annually.

(5) The department shall pay for school-based medical services according to the department-established rate or the billed amount, whichever is lower.

(6) The department shall not pay individual school practitioners who provide school-based medical services.

(7) The department shall require school districts or ESD to pursue third-party resources for medical services billed to Medicaid.

[Statutory Authority: RCW 74.08.090. 95-21-051 (Order 3908), § 388-86-022, filed 10/11/95, effective 11/11/95; 93-21-002 (Order 3650), § 388-86-022, filed 10/6/93, effective 11/6/93; 92-22-052 (Order 3474), § 388-86-022, filed 10/28/92, effective 11/28/92; 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-022, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90.]

WAC 388-86-030 Vision care. (1) The medical assistance administration (MAA) shall reimburse a provider for medically necessary eye care services for a client:

(a) Twenty-one years of age or over, one each of the services listed under subsection (2) of this section, in a twenty-four-month period; or

(b) Twenty years of age or under, one each of the services listed under subsection (2) of this section, in a twelve-month period.

(2) The MAA's eye care services shall include:

(a) Eye examinations;

(b) Refractions;

(c) Fitting fees; and

(d) Eyeglass lenses and/or frames.

(3) The department shall not apply the time period limitation when the:

(a) Eye examination is medically necessary for diagnosing and/or treating a medical condition; or

(b) Client described under subsection (5) of this section requires replacement glasses due to loss or breakage.

(4) MAA shall limit the choice of frames and lenses to frames and lenses listed under contract in the current MAA numbered memoranda and/or MAA provider's billing instructions on that subject.

(5) MAA shall only reimburse for replacement of broken or lost eyeglasses for a:

(a) Client of the division of developmental disabilities;

(b) Child twenty years of age or under; or

(c) Client residing in an institution.

(6) MAA shall reimburse for replacement of lenses for a change in refractive error in sphere, cylinder, or spherical equivalent of a plus or minus of one diopter and which result in an improvement of visual acuity. The change in prescription shall not apply to providing separate pairs of eyeglasses for distance and reading or for two pairs of eyeglasses in place of multifocals.

(7) MAA shall not reimburse a provider for eyeglasses when the client's prescription is over two years old.

(8) MAA shall reimburse for:

(a) Specialized lenses only for conditions as listed in MAA provider's billing instructions; and

(b) Contact lenses:

(i) Only when medically justified; and

(ii) As allowed in a twelve-month period with the conditions specified in MAA provider's billing instructions.

(9) MAA shall consider cataract surgery medically necessary without prior authorization when the client has a documented cataract with:

(a) The best correctable visual acuity in the affected eye is 20/50 or worse as measured on a snellen test chart; or

(b) Other visual impairment conditions which include:

(i) Double vision;

(ii) Phacogenic glaucoma;

(iii) Phacogenic uveitis;

(iv) Phacoanaphylactic endophthalmitis;

(v) Intraocular foreign body;

(vi) Ocular trauma; or

(vii) Dislocated or subluxated lens causing glaucoma, monocular diplopia, aphakia, myopia, or astigmatism.

(10) MAA shall consider cataract surgery as a nonemergent procedure, except when the client is determined statutorily blind as defined under WAC 388-511-1105 (1)(b).

(11) The provider shall document and maintain in the client's record medical justification of the eye care services.

(12) Except for services as defined in WAC 388-86-027, the department shall not permit group screening for eyeglasses.

(13) The department shall reimburse for eye care services provided to clients eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs; or

(b) Medically needy program.

(14) The department shall not cover orthoptics and visual training therapy. See WAC 388-86-200.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-86-030, filed 10/25/95, effective 10/28/95; 94-07-122 (Order 3711), § 388-86-030, filed 3/22/94, effective 4/22/94; 87-23-055 (Order 2559), § 388-86-030, filed 11/18/87; 86-02-031 (Order 2321), § 388-86-030, filed 12/27/85; 85-18-065 (Order 2279), § 388-86-030, filed 9/4/85; 82-23-005 (Order 1900), § 388-86-030, filed 11/4/82; 81-16-033 (Order 1685), § 388-86-030, filed 7/29/81; 80-13-020 (Order 1542), § 388-86-030, filed 9/9/80; 79-01-002 (Order 1359), § 388-86-030, filed 12/8/78; 78-06-087 (Order 1301), § 388-86-030, filed 6/2/78; Order 1233, § 388-86-030, filed 8/31/77; Order 1203, § 388-86-030, filed 4/1/77; Order 1112, § 388-86-030, filed 4/15/76; Order 994, § 388-86-030, filed 12/31/74; Order 738, § 388-86-030, filed 11/22/72; Order 385, § 388-86-030, filed 8/27/69; Order 264 (part), § 388-86-030, filed 11/24/67.]

WAC 388-86-073 Occupational therapy. (1) The department shall pay for occupational therapy when the occupational therapy is provided:

(a) By a licensed occupational therapist;

(b) By a licensed occupational therapy assistant supervised by a licensed occupational therapist; or

(c) In schools, by an occupational therapy aide trained and supervised by a licensed occupational therapist.

(2) The department shall pay for occupational therapy:

(a) Effective September 1, 1993, as part of an outpatient treatment program for adults and children;

(b) By a home health agency as described under WAC 388-86-045;

(c) As part of the physical medicine and rehabilitation program as described under WAC 388-86-112;

(d) In a neuromuscular center; or

(e) By a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

(3) The department shall not pay for occupational therapy when payment for occupational therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services or nursing facility services.

(4) The department shall pay for the following occupational therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

(a) One occupational therapy assessment;

(b) Two durable medical equipment needs assessments;

(c) Twelve occupational therapy sessions;

(d) Twenty-four additional outpatient occupational therapy sessions if the diagnosis is associated with:

(i) A medically necessary condition for developmentally delayed clients;

(ii) Surgeries involving extremities:

(A) Fractures; or

(B) Open wounds with tendon involvement.

(iii) Intracranial injuries;

(iv) Burns;

(v) Traumatic injuries;

(vi) Cerebral palsy;

(vii) Downs Syndrome;

(viii) Meningomyelocele;

(ix) Severe oral/motor problems:

(A) Dyspraxia;

(B) Cleft palate and/or cleft lip; or

(C) That interfere with adequate nutrition.

(x) Symptoms involving nervous and musculoskeletal systems:

(A) Abnormality of gait; or

(B) Lack of coordination; or

(xi) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services, but continues to require specialized outpatient therapy.

(e) Additional one hundred twenty-four outpatient occupational therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Additional sessions when requested and approved through department of health's children with special health care needs program;

(g) Subject to department approval, additional occupational therapy services regardless of diagnosis when such services are medically necessary.

(5) For the purposes of this section, a "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(6) The department shall pay for occupational therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(7) The department shall pay for occupational therapy provided to a client receiving services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-86-073, filed 10/25/95, effective 10/28/95; 94-07-030 (Order 3714), § 388-86-073, filed 3/9/94, effective 4/9/94; 94-01-065 (Order 3679), § 388-86-073, filed 12/8/93, effective 1/8/94; 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-073, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90.]

WAC 388-86-075 Outpatient and emergency care. The department shall require no authorization for categorically needy or limited casualty program-medically needy clients to receive outpatient service, emergent outpatient surgical care, and other emergency care performed on an outpatient basis in a hospital. The provider shall present justification for the service with the request for payment.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-86-075, filed 10/25/95, effective 10/28/95; 88-15-010 (Order 2649), § 388-86-075, filed 7/8/88; 83-03-016 (Order 1937), § 388-86-075, filed 1/12/83; 81-16-033 (Order 1685), § 388-86-075, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-075, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-075, filed 10/9/80; 79-06-034 (Order 1402), § 388-86-075, filed 5/16/79; Order 1196, § 388-86-075, filed 3/3/77; Order 1112, § 388-86-075, filed 4/15/76; Order 696, § 388-86-075, filed 6/29/72; Order 566, § 388-86-075, filed 5/19/71; Order 264 (part), § 388-86-075, filed 11/24/67.]

WAC 388-86-090 Physical therapy. (1) The department shall pay for physical therapy as an outpatient service when:

(a) The attending physician prescribes physical therapy;

(b) A licensed physical therapist or physiatrist, a physical therapist assistant supervised by a licensed physical therapist, or, in schools, a physical therapy aide trained and supervised by a licensed physical therapist provides the treatment; and

(c) The therapy assists the client:

(i) In avoiding hospitalization or nursing facility care; or

(ii) In becoming employable; or

(iii) Who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or

(iv) As part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(2) The department shall pay for the following physical therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

(a) One medical diagnostic evaluation;

(b) Twelve physical therapy sessions; and

(c) Twenty-four additional outpatient sessions, when the services are for:

(i) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services but continues to require specialized outpatient therapy; or

(ii) Medically necessary conditions for developmentally delayed clients;

(iii) Surgeries involving extremities:

(A) Fractures;

(B) Open wounds with tendon involvement.

(iv) Intracranial injuries;

(v) Burns;

(vi) Cerebral palsy;

(vii) Downs Syndrome;

(viii) Meningomyelocele;

(ix) Traumatic injuries; or

(x) Symptoms involving nervous and musculoskeletal systems with abnormality of gait and lack of coordination.

(d) Additional sessions when requested and approved through department of health's children with special health care needs program;

(e) Additional one hundred twenty-four outpatient physical therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Subject to department approval, additional physical therapy services regardless of diagnosis when such services are medically necessary.

(3) For the purposes of this section, "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(4) The department shall not pay for physical therapy when payment for physical therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services and nursing facility services.

(5) The department shall pay for outpatient physical therapy for a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(6) The department shall pay for outpatient physical therapy for a client receiving services provided by a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-86-090, filed 10/25/95, effective 10/28/95; 94-07-030 (Order 3714), § 388-86-090, filed 3/9/94, effective 4/9/94; 94-01-065 (Order 3679), § 388-86-090, filed 12/8/93, effective 1/8/94; 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-090, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90; 89-05-029 (Order 2758), § 388-86-090, filed 2/13/89; 88-01-043 (Order 2568), § 388-86-090, filed 12/11/87; 86-02-031 (Order 2321), § 388-86-090, filed 12/27/85; 84-20-102 (Order 2159), § 388-86-090, filed 10/3/84; 81-16-033 (Order 1685), § 388-86-090, filed 7/29/81; 80-13-020 (Order 1542), § 388-86-090, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-090, filed 1/13/78; Order 1202, § 388-86-090, filed 4/1/77; Order 1151, § 388-86-090, filed 9/8/76; Order 911, § 388-86-090, filed 3/1/74; Order 781, § 388-86-090, filed 3/16/73; Order 474, § 388-86-090, filed 8/19/70; Order 385, § 388-86-090, filed 8/27/69; Order 303, § 388-86-090, filed 9/6/68; Order 264 (part), § 388-86-090, filed 11/24/67.]

WAC 388-86-098 Speech therapy services. (1) The department shall pay for speech therapy for conditions which are the result of medically recognized diseases and defects.

(2) The department shall pay for speech therapy when the services are provided:

(a) By a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association;

(b) By a person who completed the equivalent educational and work experience necessary for such a certificate; or

(c) In schools as described under WAC 388-86-022, by a person:

(i) Who has completed the academic program and is acquiring supervised work experience to qualify for a certificate of clinical competence from the American speech, hearing and language association; or

(ii) Trained and supervised by a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American speech, hearing and language association or a person who has completed the equivalent educational and work experience necessary for such a certificate.

(3) The department shall pay for the following speech therapy services in a calendar year when the health professional determines the services are medically appropriate:

(a) One medical diagnostic evaluation;

(b) Twelve speech therapy sessions;

(c) Twenty-four additional speech therapy sessions if the speech therapy service is for:

(i) Medically necessary conditions for developmentally delayed clients;

(ii) Cerebral Palsy;

(iii) Severe oral/motor problems:

(A) Dyspraxia;

(B) Cleft palate and/or cleft lip; or

(C) That interfere with adequate nutrition.

(iv) Meningomyelocele;

(v) Neurofibromatosis;

(vi) Downs Syndrome;

(vii) Traumatic head/brain injury (TBI);

(viii) Cerebral vascular accident (recent only) of dominant hemisphere; or

(ix) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing, but continues to require specialized outpatient therapy.

(d) Subject to department approval, additional speech therapy services regardless of diagnosis when such services are medically necessary.

(4) The department shall not pay for speech therapy when the speech therapy payment is part of the reimbursement for another treatment program including, but not limited to:

(a) Hospital inpatient diagnosis related group services; and

(b) Nursing facility services.

(5) The department shall pay for speech therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age and under and referred by a screening provider under the early and periodic screening, diagnosis and treatment program/healthy kids program; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(6) The department shall pay for speech therapy provided to a client receiving medical services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-86-098, filed 10/25/95, effective 10/28/95; 94-07-030 (Order 3714), § 388-86-098, filed 3/9/94, effective 4/9/94; 94-01-065 (Order 3679), § 388-

86-098, filed 12/8/93, effective 1/8/94; 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-098, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90; 88-15-010 (Order 2649), § 388-86-098, filed 7/8/88; 86-02-031 (Order 2321), § 388-86-098, filed 12/27/85; 82-10-062 (Order 1801), § 388-86-098, filed 5/5/82; 82-01-001 (Order 1725), § 388-86-098, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-098, filed 7/29/81; 78-02-024 (Order 1265), § 388-86-098, filed 1/13/78; Order 1202, § 388-86-098, filed 4/1/77.]

Chapter 388-87 WAC
MEDICAL CARE—PAYMENT

WAC

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-87-050 Payment—Dental services. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-87-050, filed 5/16/79; Order 1203, § 388-87-050, filed 4/1/77; Order 454, § 388-87-050, filed 5/20/70; Order 419, § 388-87-050, filed 12/31/69; Order 386, § 388-87-050, filed 8/27/69; Order 264 (part), § 388-87-050, filed 11/24/67.] Repealed by 96-01-006 (Order 3931), filed 12/6/95, effective 1/6/96. Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090.

WAC 388-87-005 Payment—Eligible providers defined. (1) The following providers shall be eligible for enrollment to provide medical care to eligible clients:

(a) Persons currently licensed by the state of Washington to practice medicine, osteopathy, dentistry, optometry, podiatry, midwifery, nursing, dental hygiene, denturism, chiropractic, or physical, occupational, speech, or respiratory therapy;

(b) A hospital currently licensed by the department of health;

(c) A facility currently licensed and classified by the department as a nursing facility or an intermediate care facility for the mentally retarded (ICF-MR);

(d) A licensed pharmacy;

(e) A home health services agency licensed under chapter 70.127 RCW;

(f) A hospice care agency licensed under chapter 70.127 RCW;

(g) An independent (outside) laboratory certified to participate under Title XVIII or determined currently to meet the Medicare requirements for such participation;

(h) A company or person, not excluded in subsection (3) of this section, supplying items vital to the provision of medical services such as ambulance service, oxygen, eyeglasses, other appliances, or approved services not otherwise covered under this section;

(i) A provider of screening services having a signed agreement with the department to provide such services to eligible persons in the early and periodic screening and diagnosis and treatment (EPSDT) program;

(j) A qualified and approved center for the detoxification of acute alcohol or other drug intoxication conditions;

(k) A qualified and approved outpatient clinical community mental health center, an approved inpatient psychiatric facility, or Indian health service clinic;

(l) A chemical dependency facility:

(i) Certified by the division of alcohol and substance abuse under chapter 275-19 WAC, or its successor; and

(ii) Included in a coordinated continuum of chemical dependency services per a county plan under chapter 275-25 WAC or its successor.

(m) A Medicare-certified rural health clinic;

(n) A federally qualified health care center;

(o) Licensed or certified agencies or persons having a signed agreement with the department to provide coordinated community AIDS service alternatives program services:

(i) Home care agency personal care providers or self-employed independent contractors providing hourly attendant or respite care;

(ii) Facilities or agencies providing therapeutic-home-delivered meals;

(iii) Dietitians or nutritionists; and

(iv) Social workers, mental health counselors, or psychologists who are self-employed independent contractors or employed by various licensed or certified agencies.

(p) Approved prepaid health maintenance, prepaid health plans, or health insuring organizations;

(q) An out-of-state provider of services listed under subsection (1)(a) through (l) of this section subject to conditions specified under WAC 388-87-105;

(r) A Washington state school district or educational service district;

(s) A licensed birthing center; and

(t) A Medicare-certified ambulatory surgical center.

(2) The department shall not pay for services performed by the following practitioners:

(a) Acupuncturists;

(b) Sanipractors;

(c) Naturopaths;

(d) Homeopathists;

(e) Herbalists;

(f) Masseurs or manipulators;

(g) Christian Science practitioners or theological healers; and

(h) Any other licensed or unlicensed practitioners not otherwise specifically provided for under the rules of this chapter.

(3) Conditions of provider enrollment.

(a) Nothing in this section shall bind the department to enroll all eligible providers capable of delivering covered services. The department shall demonstrate the department's plan for service delivery creates adequate access to covered services.

(b) When a provider has a restricted professional license or has been terminated, excluded, or suspended from the Medicare/Medicaid programs, the department shall not enroll the provider unless the department determines the violations leading to the sanction or license restriction are not likely to be repeated. In the department's determination, the department shall consider whether the provider has been convicted of offenses related to the delivery of professional or other medical services not considered during the development of the previous sanction.

(c) The department shall not reinstate in the medical assistance program, a provider suspended from Medicare or suspended by the United States Department of Health and Human Services (DHHS) until DHHS notifies the department that the provider may be reinstated.

(d) Nothing in this subsection shall preclude the department from denying provider enrollment if, in the opinion of the medical director, medical assistance administration, the provider constitutes a danger to the health and safety of clients.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-87-005, filed 12/6/95, effective 1/6/96. Statutory Authority: RCW 74.08.090. 93-17-038 (Order 3620), § 388-87-005, filed 8/11/93, effective 9/11/93; 93-11-046 (Order 3545), § 388-87-005, filed 5/12/93, effective 6/12/93; 90-18-092 (Order 3064), § 388-87-005, filed 9/5/90, effective 10/6/90; 89-18-033 (Order 2860), § 388-87-005, filed 8/29/89, effective 9/29/89; 88-16-084 (Order 2665), § 388-87-005, filed 8/2/88; 87-12-056 (Order 2501), § 388-87-005, filed 6/1/87; 85-04-022 (Order 2198), § 388-87-005, filed 1/30/85; 83-17-073 (Order 2011), § 388-87-005, filed 8/19/83; 82-10-062 (Order 1801), § 388-87-005, filed 5/5/82; 82-01-001 (Order 1725), § 388-87-005, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-005, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-005, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-005, filed 9/9/80; 78-10-077 (Order 1346), § 388-87-005, filed 9/27/78; Order 1233, § 388-87-005, filed 8/31/77; Order 1112, § 388-87-005, filed 4/15/76; Order 994, § 388-87-005, filed 12/31/74; Order 930, § 388-87-005, filed 4/25/74; Order 739, § 388-87-005, filed 11/22/72; Order 386, § 388-87-005, filed 8/27/69; Order 264 (part), § 388-87-005, filed 11/27/67.]

WAC 388-87-020 Subrogation. (1) As a condition of medical care eligibility as described under WAC 388-505-0540, a client shall assign to the state any right the client may have to receive payment from any liable third party for reimbursement of state-made expenses for medical care for health care items or services provided to the client.

(2) The department shall not be responsible to pay for medical care for a client whose personal injuries are occasioned by the negligence or wrongdoing of another: *Provided, however,* That the secretary of the department or the secretary's designee may furnish the medical care required as a result of an injury to the client if the client is otherwise eligible for medical care and no other liable third party has been identified at the time the claim is filed, and the department shall thereby be subrogated to the rights of recovery therefore to the extent of the cost of medical care furnished by the department.

(3) The department may pursue its right to recover the value of medical care provided to an eligible client from any liable third party as a subrogee, assignee, or by enforcement of its public assistance lien as provided under RCW 43.20B.040 through 43.20B.070.

(4) Recovery pursuant to the subrogation rights, assignment, or enforcement of the lien granted to the department shall not be reduced, prorated, or applied to only a portion of a judgment, award, or settlement. No settlement or judgment of a lien created under RCW 43.20B.060 shall be discharged or compromised without written consent of the secretary of the department or the secretary's designee. The department shall only consider compromise or discharge of a medical care lien as authorized by federal regulation at 42 CFR 433.139.

(5) The doctrine of equitable subrogation shall not apply to defeat, reduce, or prorate recovery by the department as to its assignment, lien, or subrogation rights.

[Statutory Authority: SSB 5419(6) and RCW 74.08.090. 95-20-031 (Order 3900), § 388-87-020, filed 9/27/95, effective 10/28/95; Order 264 (part), § 388-87-020, filed 11/24/67.]

WAC 388-87-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-87-072 Payment—Hospital outpatient services. (1) For eligible clients, the department shall reimburse for medically necessary hospital outpatient services when the services are medically necessary as defined under WAC 388-80-005, and the hospital provider meets the requirements under WAC 388-87-070(1).

(2) For hospital outpatient services provided on or before June 30, 1985, except for nonallowable revenue codes, the department shall determine reimbursement by applying the hospital commission approved operating expenses ratio and total rate setting revenue.

(3) For hospital outpatient services, except for services in subsection (4) of this section and nonallowable revenue codes, provided from July 1, 1985, to June 30, 1991, the department shall determine reimbursement payment by applying the hospital commission operating expenses ratio and total rate setting revenue.

(4) For hospital outpatient services provided on or after July 1, 1991, reimbursement shall be the hospital ratio of cost to charge (RCC), determined from the hospital specific HCFA 2552 Medicare Cost Report, then reduced for the average charge level inflation over the Data Research Incorporated HCFA Market Basket inflation index, except as provided for primary care case management under WAC 388-538-100(2).

(5) For hospital outpatient laboratory, x-ray, and allowable therapy (physical, speech, and hearing) services, payment shall be the lesser of billed charges or the fee listed in the Medical Assistance Administration Schedule of Maximum Allowances.

[Statutory Authority: RCW 74.08.090. 95-04-033 (Order 3826), § 388-87-072, filed 1/24/95, effective 2/1/95; 91-21-123 (Order 3268), § 388-87-072, filed 10/23/91, effective 11/23/91; 91-10-025 (Order 3161), § 388-87-072, filed 4/23/91, effective 5/24/91; 85-17-033 (Order 2266), § 388-87-072, filed 8/15/85.]

Chapter 388-91 WAC
MEDICAL CARE—DRUGS

WAC

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-91-007 Drugs—Drug discount agreement. [Statutory Authority: RCW 74.08.090. 94-01-094 (Order 3685), § 388-91-007, filed 12/14/93, effective 1/14/94.] Repealed by 95-17-032 (Order 3879), filed 8/9/95, effective 9/9/95. Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18 § 209(6).

WAC 388-91-007 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-91-010 Drugs—Not requiring prior authorization. (1) The department shall publish a list of all drugs not requiring prior approval as described under subsections (2)(a) through (2)(e) and (3) of this section. The medical assistance administration may make changes to this list providing that action is in compliance with regulations governing the drug program and with acceptable management policies.

(2) The department's decision not to require authorization for drug preparations shall be based on the following criteria:

(a) The drug is established as a part of necessary and essential care for the condition for which the drug is used;

(b) The drug is in general use by physicians practicing in Washington;

(c) The drug is of moderate cost. The department shall use generic forms when the drug is listed under the department or federal maximum allowable cost (MAC) programs. When two preparations of equal effectiveness but disparate costs are presented, the department shall select the less expensive drug;

(d) The food and drug administration shall not have classified the drug as "less than effective"; and

(e) The drug is not experimental.

(3) The department shall use the following process to determine when a drug preparation requires prior authorization:

(a) Review objective, scientific information, and utilization data for appropriateness according to the criteria in subsection (2) of this section; or

(b) Provide for the potential appointment of an advisory committee by the secretary in accordance with RCW 43.20A.360 to review and advise the medical assistance administration whether the drug preparation requires prior authorization; and

(c) Make appropriate changes in the requirement of prior authorization as to a drug preparation when consistent with subsection (2) of this section, and may accept recommendations of the advisory committee providing that action is in compliance with regulations governing the program and with acceptable management policies.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18 § 209(6). 95-17-032 (Order 3879), § 388-91-010, filed 8/9/95, effective 9/9/95. Statutory Authority: RCW 74.08.090. 94-01-094 (Order 3685), § 388-91-010, filed 12/14/93, effective 1/14/94; 91-23-084 (Order 3286), § 388-91-010, filed 11/19/91, effective 12/20/91; 86-01-080 (Order 2320), § 388-91-010, filed 12/18/85; 84-09-017 (Order 2090), § 388-91-010, filed 4/10/84; 81-16-032 (Order 1684), § 388-91-010, filed 7/29/81; 81-10-016 (Order 1648), § 388-91-010, filed 4/27/81; 80-15-034 (Order 1554), § 388-91-010, filed 10/9/80; 80-02-024 (Order 1473), § 388-91-010, filed 1/9/80; 79-06-034 (Order 1402), § 388-91-010, filed 5/16/79; 78-10-077 (Order 1346), § 388-91-010, filed 9/27/78; Order 682, § 388-91-010, filed 5/10/72; Order 632, § 388-91-010, filed 11/24/71; Order 583, § 388-91-010, filed 7/20/71; Order 461, § 388-91-010, filed 6/17/70, effective 8/1/70; Order 387, § 388-91-010, filed 8/27/69; Order 316, § 388-91-010, filed 10/31/68.]

WAC 388-91-020 Drugs—Requiring authorization. (1) The pharmacist shall make a request to the department for drugs requiring prior authorization before dispensing the drug. The request shall be supported by the medical diagnosis and include proper justification for the drug.

(2) The department may pay for drugs requiring prior authorization which are prescribed without prior authorization only:

(a) In an acute emergency;

(b) If the physician can substantiate that a drug is mandatory; and

(c) When the department receives justification within seventy-two hours for consideration.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18 § 209(6). 95-17-032 (Order 3879), § 388-91-020, filed 8/9/95, effective 9/9/95. Statutory Authority: RCW 74.08.090. 94-01-094 (Order 3685), § 388-91-020, filed 12/14/93, effective 1/14/94; 91-23-084 (Order 3286), § 388-91-020, filed 11/19/91, effective 12/20/91; 86-01-080 (Order 2320), § 388-91-020, filed 12/18/85; 85-11-034 (Order 2233), § 388-91-020, filed 5/15/85; 79-06-034 (Order 1402), § 388-91-020, filed 5/16/79; Order 1170, § 388-91-020, filed 11/24/76; Order 884, § 388-91-020, filed 12/17/73; Order 461, § 388-91-020, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-020, filed 10/31/68.]

Chapter 388-96 WAC
NURSING HOME ACCOUNTING AND REIMBURSEMENT SYSTEM

WAC

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-96-216 Deadline for completion of audits. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-216, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-216, filed 9/16/83; Order 1262, § 388-96-216, filed 12/30/77.] Repealed by 95-19-037 (Order 3896), filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18.

388-96-753 Return on investment—Effect of funding granted under WAC 388-96-774, 388-96-776, and 388-96-777. [Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-753, filed 5/26/94, effective 6/26/94.] Repealed by 95-19-037 (Order 3896), filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18.

388-96-902 Recoupment of undisputed overpayments. [Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-902, filed 5/14/82.] Repealed by 95-19-037 (Order 3896), filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18.

WAC 388-96-010 Terms. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accounting" means activities providing information, usually quantitative and often expressed in monetary units, for:

(a) Decision-making;

(b) Planning;

(c) Evaluating performance;

(d) Controlling resources and operations; and

(e) External financial reporting to investors, creditors, regulatory authorities, and the public.

(2) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period in which incurred, regardless of when paid.

(3) "Administration and management" means activities employed to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

(4) "Allowable costs" - See WAC 388-96-501.

(5) "Ancillary care" means services required by the individual, comprehensive plan of care provided by qualified therapists or by support personnel under their supervision.

(6) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who have adverse bargaining positions in the marketplace.

(a) Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter.

(b) Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(7) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. "Assets" also include certain deferred charges that are not resources but are recognized and measured in accordance with generally accepted accounting principles.

(8) "Bad debts" means amounts considered to be uncollectible from accounts and notes receivable.

(9) "Beds" means, unless otherwise specified, the number of set-up beds in the nursing home, not to exceed the number of licensed beds.

(10) "Beneficial owner" means any person who:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest, or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (4) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except that, any person who acquires an ownership interest or power specified in subsection (10)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power.

(d) In the ordinary course of business, is a pledgee of ownership interest under a written pledge agreement and shall not be deemed the beneficial owner of such pledged ownership interest until the pledgee takes:

(i) Formal steps necessary required to declare a default; and

(ii) Determines the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised provided the pledge agreement:

(A) Is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (10)(b) of this section; and

(B) Prior to default, does not grant the pledgee the power to:

(I) Vote or direct the vote of the pledged ownership interest; or

(II) Dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(11) "Capitalization" means the recording of an expenditure as an asset.

(12) "Capitalized lease" means a lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(13) "Cash method of accounting" means a method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

(14) "Change of ownership" means a substitution of the individual operator or operating entity contracting with the department to deliver care services to medical care recipients in a nursing facility and ultimately responsible for the daily operational decisions of the nursing facility; or a substitution of control of such operating entity.

(a) Events which constitute a change of ownership include but are not limited to the following:

(i) The form of legal organization of the contractor is changed (e.g., a sole proprietor forms a partnership or corporation);

(ii) Ownership of the nursing home business enterprise is transferred by the contractor to another party, regardless of whether ownership of some or all of the real property and/or personal property assets of the facility is also transferred;

(iii) If the contractor is a partnership, any event occurs which dissolves the partnership;

(iv) If the contractor is a corporation, and the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation;

(v) If the operator is a corporation and, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock is transferred to one or more:

(A) New or former stockholders; or

(B) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(vi) Any other event or combination of events which results in a substitution or substitution of control of the individual operator or the operating entity contracting with the department to deliver care services.

(b) Ownership does not change when the following, without more, occur:

(i) A party contracts with the contractor to manage the nursing facility enterprise as the contractor's agent, i.e., subject to the contractor's general approval of daily operating and management decisions; or

(ii) The real property or personal property assets of the nursing facility change ownership or are leased, or a lease of them is terminated, without a substitution of individual operator or operating entity and without a substitution of control of the operating entity contracting with the department to deliver care services.

(15) "Charity allowances" means reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

(16) "Contract" means a contract between the department and a contractor for the delivery of nursing facility services to medical care recipients.

(17) "Contractor" means an entity which contracts with the department to deliver nursing facility services to medical care recipients in a facility. The entity is responsible for operational decisions.

(18) "Courtesy allowances" means reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

(19) "CSO" means the local community services office of the department.

(20) "Department" means the department of social and health services (DSHS) and employees.

(21) "Depreciation" means the systematic distribution of the cost or other base of tangible assets, less salvage, over the estimated useful life of the assets.

(22) "Donated asset" means an asset the contractor acquired without making any payment for the asset in the form of cash, property, or services.

(a) An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset.

(b) An asset purchased using donated funds is not a donated asset.

(23) "Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(24) "Equity capital" means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(25) "Exceptional care recipient" means a medical care recipient determined by the department to require exceptionally heavy care.

(26) "Facility" means a nursing home or facility licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(27) "Fair market value" means:

(a) Prior to January 1, 1985, the price for which an asset would have been purchased on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell; or

(b) Beginning January 1, 1985, the replacement cost of an asset, less observed physical depreciation, on the date the fair market value is determined.

(28) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles and the provisions of chapter 74.46 RCW and this chapter including, but not limited to:

(a) Balance sheet;

(b) Statement of operations;

(c) Statement of changes in financial position; and

(d) Related notes.

(29) "Fiscal year" means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods. As determined by context or otherwise, "fiscal year" may also refer to a state fiscal year extending from July 1 through

June 30 of the following year and comprising the first or second half of a state fiscal biennium.

(30) "Gain on sale" means the actual total sales price of all tangible and intangible nursing home assets including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, minus the net book value of such assets immediately prior to the time of sale.

(31) "Generally accepted accounting principles (GAAP)" means accounting principles approved by the financial accounting standards Board (FASB).

(32) "Generally accepted auditing standards (GAAS)" means auditing standards approved by the American institute of certified public accountants (AICPA).

(33) "Goodwill" means the excess of the price paid for:

(a) A business over the fair market value of all other identifiable, tangible, and intangible assets acquired; and

(b) An asset over the fair market value of the asset.

(34) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(35) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

(36) "Interest" means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(37) "Joint facility costs" means any costs representing expenses incurred which benefit more than one facility, or one facility and any other entity.

(38) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee shall not be considered modification of a lease term.

(39) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

(40) "Medical care recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.

(41) "Multiservice facility" means a facility at which two or more types of health or related care are delivered, e.g., a hospital and nursing facility, or a boarding home and nursing facility.

(42) "Net book value" means the historical cost of an asset less accumulated depreciation.

(43) "Net invested funds" means the net book value of tangible fixed assets, excluding assets associated with central or home offices or otherwise not on the nursing facility premises, employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles and not in excess of any lids or reimbursement limits set forth in this chapter, plus an allowance for working capital as provided in this chapter.

(44) "Nonadministrative wages and benefits" means wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

(45) "Nonallowable costs" means the same as "unallowable costs."

(46) "Nonrestricted funds" means funds which are not restricted to a specific use by the donor, e.g., general operating funds.

(47) "Nursing facility" means a home, place, or institution, licensed under chapter 18.51 or 70.41 RCW, where nursing care services are delivered.

(48) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(49) "Owner" means a sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(50) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form the beneficial ownership takes.

(51) "Patient day" or "resident day" means a calendar day of care provided to a nursing facility resident. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the patient was admitted on the same day. A patient is admitted for purposes of this definition when the patient is assigned a bed and a patient medical record is opened. A "client day" or "recipient day" means a calendar day of care provided to a medical care recipient determined eligible by the department for services provided under chapter 74.09 RCW, subject to the same conditions regarding admission and discharge applicable to a patient day or resident day of care.

(52) "Per diem (per patient day or per resident day) costs" means total allowable costs for a fiscal period divided by total patient or resident days for the same period.

(53) "Professionally designated real estate appraiser" means an individual:

(a) Regularly engaged in the business of providing real estate valuation services for a fee;

(b) Qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the:

(i) Writing of real estate valuation reports;

(ii) Passing of written examination on valuation practice and theory; and

(iii) Requirement to subscribe and adhere to certain standards of professional practice as the organization prescribes.

(54) "Prospective daily payment rate" means the rate assigned by the department to a contractor for providing service to medical care recipients. The rate is used to compute the maximum participation of the department in the contractor's costs.

(55) "Qualified therapist":

(a) An activities specialist having specialized education, training, or at least one year's experience in organizing and conducting structured or group activities;

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional, either a qualified therapist or a therapist, approved by the department having specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker graduated from a school of social work;

(f) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW;

(h) An occupational therapist graduated from a program in occupational therapy, or having the equivalent of education or training, and meeting all requirements of state law; or

(i) A respiratory care practitioner certified under chapter 18.89 RCW.

(56) "Rebased rate" or "cost rebased rate" means a facility-specific rate assigned to a nursing facility for a particular rate period established on desk-reviewed, adjusted costs reported for that facility covering at least six months of a prior calendar year.

(57) "Recipient" means a medical care recipient.

(58) "Records" means data supporting all financial statements and cost reports including, but not limited to:

(a) All general and subsidiary ledgers;

(b) Books of original entry;

(c) Invoices;

(d) Schedules;

(e) Summaries; and

(f) Transaction documentation, however maintained.

(59) "Regression analysis" means a statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

(60) "Related care" includes:

(a) The director of nursing services;

(b) Activities and social services programs;

(c) Medical and medical records specialists; and

(d) Consultation provided by:

(i) Medical directors;

(ii) Pharmacists;

(iii) Occupational therapists;

(iv) Physical therapists;

(v) Speech therapists; and

(vi) Other therapists; and

(vii) Mental health professionals as defined in law and regulation.

(61) "Related organization" means an entity under common ownership and/or control, or which has control of or is controlled by, the contractor. Common ownership exists if an entity has a five percent or greater beneficial ownership interest in the contractor and any other entity. Control exists if an entity has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution, whether or not the power is legally enforceable and however exercisable or exercised.

(62) "Relative" includes:

(a) Spouse;

(b) Natural parent, child, or sibling;

(c) Adopted child or adoptive parent;

(d) Stepparent, stepchild, stepbrother, stepsister;

(e) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;

(f) Grandparent or grandchild; and

(g) Uncle, aunt, nephew, niece, or cousin.

(63) "Restricted fund" means a fund for which the use of the principal and/or income is restricted by agreement with or direction of the donor to a specific purpose, in contrast to a fund over which the contractor has complete control. Restricted funds generally fall into three categories:

(a) Funds restricted by the donor to specific operating purposes;

(b) Funds restricted by the donor for additions to property, plant, and equipment; and

(c) Endowment funds.

(64) "Secretary" means the secretary of the department of social and health services (DSHS).

(65) "Start-up costs" means the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include:

(a) Administrative and nursing salaries;

(b) Utility costs;

(c) Taxes;

(d) Insurance;

(e) Repairs and maintenance; and

(f) Training costs.

Start-up costs do not include expenditures for capital assets.

(66) "Title XIX" means the 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

(67) "Unallowable costs" means costs which do not meet every test of an allowable cost.

(68) "Uniform chart of accounts" means a list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

(69) "Vendor number" means a number assigned to each contractor delivering care services to medical care recipients.

(70) "Working capital" means total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary, ordinary, and related to patient care from the most recent cost report.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-010, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-010, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-010, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 91-22-025 (Order 3270), § 388-96-010, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-010, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-010, filed 12/23/87. Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-060 (Order 2240), § 388-96-010, filed 6/18/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-010, filed 12/4/84. Statutory Authority: RCW

74.46.800. 84-12-039 (Order 2105), § 388-96-010, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-010, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-010, filed 10/13/82; 81-22-081 (Order 1712), § 388-96-010, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-010, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-09-083 (Order 1527), § 388-96-010, filed 7/22/80; 79-04-061 (Order 1381), § 388-96-010, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-010, filed 6/1/78; Order 1262, § 388-96-010, filed 12/30/77.]

WAC 388-96-032 Termination of contract. (1) When a contract is terminated for any reason, the old contractor shall submit final reports in accordance with WAC 388-96-104.

(2) Upon notification of a contract termination, the department shall determine by preliminary or final settlement calculations the amount of any overpayments made to the contractor, including overpayments disputed by the contractor. If preliminary or final settlements are unavailable for any period up to the date of contract termination, the department shall make a reasonable estimate of any overpayment or underpayments for such periods. The reasonable estimate shall be based upon prior period settlements, available audit findings, the projected impact of prospective rates, and other information available to the department. The department shall also determine and add in the total of all other debts owed to the department, as authorized by chapter 74.46 RCW, regardless of source, including but not limited to, civil fines, third-party liabilities and interest owed the department.

(3) The old contractor shall provide security, in a form deemed adequate by the department, equal to the total amount of determined and estimated overpayments and all other debts owed to the department from any source, whether or not the overpayments or debts are the subject of good-faith dispute. Security shall consist of:

(a) Withheld payments for one or more months of service due the contractor; or

(b) A surety bond issued by a bonding company acceptable to the department; or

(c) An assignment of funds to the department; or

(d) Collateral acceptable to the department; or

(e) A purchaser's assumption of liability for the prior contractor's overpayment; or

(f) A promissory note secured by a deed of trust; or

(g) Any combination of (a), (b), (c), (d), (e), or (f) of this subsection.

(4) A surety bond or assignment of funds shall:

(a) Be at least equal in amount to the total of determined or estimated overpayments and all other debts owed to the department from any source, including interest, whether or not the subject of good-faith dispute, minus withheld payments;

(b) Be issued or accepted by a bonding company or financial institution licensed to transact business in Washington state;

(c) Be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of any administrative appeals or exception procedure and judicial remedies, as may be available to and sought by the contractor, regarding payment, settlement, civil fine, interest assessment, or other debt issues: *Provided,* That the bond or assignment shall initially be for a term of five years, and shall be forfeited if not renewed thereafter in an amount equal to any remaining combined overpayment and debt liability as determined by the department.

(d) Provide the full amount of the bond or assignment, or both, shall be paid to the department if a properly completed final cost report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the auditor; and

(e) Provide that an amount equal to any recovery the department determines is due from the contractor from settlement or from any other source of debt owed to the department, including interest, but not exceeding the amount of the bond and assignment, shall be paid to the department if the contractor does not pay the refund and debt within sixty days following receipt of written demand for payment from the contractor to the department.

(5) The department shall release any payment withheld as security if alternate security is provided under subsection (3) of this section in an amount equivalent to determined and estimated overpayments and other debt, including interest.

(6) If the total of withheld payments, bonds, and assignments is less than the total of determined and estimated overpayments, the unsecured amount of such overpayments shall be a debt due the state and shall become a lien against the real and personal property of the contractor from the time of filing by the department with the county auditor of the county where the contractor resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

(7) The contractor shall file a properly completed final cost report in accordance with the requirements of this chapter, which shall be audited by the department. A final settlement shall be determined within ninety days following completion of the audit process, including completion of any administrative appeals or exception procedure review of the audit requested by the contractor.

(8) Following determination of settlement for all periods, security held pursuant to this section shall be released to the contractor after all overpayments, erroneous payments and debts determined in connection with final settlement, or otherwise, including accumulated interest owed the department, have been paid by the contractor.

(9) If, after calculation of settlements for any periods, it is determined that overpayments exist in excess of the value of security held by the state, the department may seek recovery of these additional overpayments as provided by law.

(10) The department may accept an assignment of funds if the assignment meets the requirements of subsections (3) and (4) of this section.

(11) Regardless of whether a contractor intends to terminate its Medicaid contract or contracts, if a contractor's net Medicaid overpayments and erroneous payments for one or more settlement periods, and for one or more nursing facilities, combined with debts due the department, reaches or exceeds a total of fifty thousand dollars, as determined by preliminary settlement, final settlement, civil fines imposed by the department, third-party liabilities or by any other source, whether such amounts are subject to good faith dispute or not, the department shall demand and obtain

security equivalent to the total of such overpayments, erroneous payments, and debts and shall obtain security for each subsequent increase in liability reaching or exceeding twenty-five thousand dollars.

(12) Security authorized by subsection (11) of this section shall meet the criteria set forth in subsections (3) and (4) of this section, except that the department shall not accept an assumption of liability. The department is authorized to withhold and shall withhold all or portions of a contractor's current contract payments or impose liens, or both, if security acceptable to the department is not received. The department shall release a contractor's withheld payments or lift liens, or both, if the contractor subsequently provides security acceptable to the department.

(13) Subsections (11) and (12) of this section shall apply to all overpayments and erroneous payments determined by preliminary or final settlements issued on or after July 1, 1995, regardless of what payment periods the settlements may cover, and shall apply to all debts owed the department from any source, including interest debts, which become due on or after July 1, 1995.

(14) When a contract is terminated, any accumulated liabilities which are assumed by a new owner shall be reversed against the appropriate accounts by the old contractor.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-032, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-032, filed 8/19/85. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-032, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-032, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-032, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-032, filed 6/1/78; Order 1262, § 388-96-032, filed 12/30/77.]

WAC 388-96-108 Failure to submit final reports. (1) If a contract is terminated, the old contractor shall submit a final report as required by WAC 388-96-032(1) and 388-96-104(2). Such final reports must be received by the department within one hundred twenty days after the contract is terminated or prior to the expiration of any department-approved extension granted pursuant to WAC 388-96-107. If a final report is not submitted, all payments made to the contractor relating to the period for which a report has not been received shall be returned to the department within sixty days after receiving written demand from the department.

(2) Effective sixty days after written demand for payment is received by the contractor, interest will begin to accrue payable to the department on any unpaid balance at the rate of one percent per month.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-108, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-108, filed 9/16/83. Statutory Authority: RCW 74.08.090. 82-21-025 (Order 1892), § 388-96-108, filed 10/13/82.]

WAC 388-96-204 Field audits. (1) The department shall conduct a field audit of all cost reports for calendar year 1982.

(2) The department may have auditors employed by the department or under contract field audit cost reports for years subsequent to 1982.

(3) Beginning with field audits for calendar year 1983, the department shall audit up to one hundred percent of submitted contractor cost reports and patient care trust fund accounts.

(4) The department may audit any or all schedules of a facility's cost report. The department shall audit the cost reports, receivables and resident trust fund accounts of each nursing facility participating in the Medicaid payment rate system periodically as determined necessary by the department.

(5) Beginning with audits of cost reports, receivables and resident trust fund accounts for calendar year 1993, facilities selected for audit shall be notified of the department's intent to audit at least ten working days before commencement of an audit of a facility's cost report or resident trust fund accounts.

(6) To assure the accuracy of cost reports, the department or an auditor under contract with the department may require a contractor to submit for departmental review any underlying financial statements or other records including income tax returns relating to the cost report directly or indirectly.

(7) The department shall audit all submitted contractor cost reports of such facilities as follows:

(a) The department shall audit facilities terminating their Medicaid service contracts with the department when the audits are conducted for the calendar year in which the contract is terminated. Schedule preference will be given to conduct closing audits as soon as possible;

(b) The department shall audit facilities contracting in any given calendar year for that partial or full year, and facilities contracting for the first time for the first full calendar year;

(c) The department shall audit facilities under investigation by the Internal Revenue Service, Securities Exchange Commission, Department of Health and Human Services, Medicaid fraud control unit, or any other federal, state, or municipal agency for alleged fiscal and/or patient account impropriety for:

(i) The year such investigation is commenced;

(ii) Each year the investigation is continued;

(iii) The year the investigation is concluded; and

(iv) Two full calendar years following the year the investigation is terminated.

(d) The department shall audit facilities that the manager, residential rate program, aging and adult services, requests be audited.

(8) If a facility has a home or central office and such central office or any associated facility meets any of the criteria set forth in subsection (7) of this section, the department shall audit such facility as provided in subsection (7) of this section.

(9) When an audit discloses material discrepancies, undocumented costs, or mishandling of patient trust funds, the department auditors may re-open a maximum of two prior unaudited cost reporting or trust fund periods and/or select future periods for audit in order to discover similar problems, if any, and take appropriate action.

(10) The department may select for audit on a random or other basis reported costs and trust fund accounts of facilities.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-204, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-204, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-204, filed 12/23/87. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-204, filed 8/19/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-204, filed 12/4/84. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-204, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-204, filed 9/16/83; Order 1262, § 388-96-204, filed 12/30/77.]

WAC 388-96-210 Scope of field audits. (1) Auditors will review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The audit will result in a schedule summarizing adjustments to the contractor's cost report whether such adjustments eliminate costs reported or include costs not reported. These adjustments shall include an explanation for the adjustment, the general ledger account or account group, and the dollar amount. Auditors will examine the contractor's financial and statistical records to verify that:

(a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to resident care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Recipient trust funds have been properly maintained; and

(f) The contractor is otherwise in compliance with provisions of this chapter and chapter 74.46 RCW.

(3) In determining allowable costs for each nursing facility for each cost report year selected for field audit, auditors shall consider and include in their adjustments, as appropriate, all peer group cost center limit adjustments as provided in subsections (4) and (5) of this section and other desk review adjustments previously made to the reported costs being audited.

(4) For audits of 1992 and 1994 cost reports, auditors shall disallow costs in excess of the nursing facility's peer group median cost plus percentage limit in each cost center without inflating or deflating such limits for economic trends and conditions authorized by this chapter, as applicable, for July 1, 1993 and July 1, 1995 prospective rates.

(5) For audits of 1993, 1995, and 1996 cost reports auditors shall disallow costs in excess of the nursing facility's peer group median cost plus percentage limit in each cost center, calculated on adjusted cost report data for the report year last used to cost-rebase the following July 1 rates but inflated or deflated for economic trends and conditions authorized by this chapter, as applicable, for July 1, 1994, July 1, 1996, and July 1, 1997 prospective rates.

(6) Auditors will prepare draft audit narratives and summaries and provide them to the contractor before final narratives and summaries are prepared.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-210, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-210, filed 9/14/93, effective 10/15/93; 89-11-100 (Order 2799), § 388-96-210, filed 5/24/89. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-210, filed 9/16/83; Order 1262, § 388-96-210, filed 12/30/77.]

WAC 388-96-216 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-220 Principles of settlement. (1) For each cost center, a settlement shall be calculated at the lower of prospective reimbursement rate or audited allowable costs, except as otherwise provided in this chapter.

(2) Each contractor shall complete a proposed preliminary settlement by cost center as part of the annual cost report and submit it by the due date of the annual cost report. After review of the proposed preliminary settlement, the department shall issue by cost center a preliminary settlement report to the contractor.

(3) If a field audit is conducted, the audit findings shall be evaluated by the department after completion of the audit, including exhaustion or termination of any administrative review requested by the contractor, but not judicial review as may be available to and commenced by the contractor. A final settlement by cost center, including any allowable shifting or cost savings, shall then be issued which takes account of such findings and evaluations.

(4) Pursuant to preliminary or final settlement and the procedures set forth in this chapter, the contractor shall refund overpayments to the department and the department shall pay underpayments to the contractor.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-220, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-220, filed 9/16/83.]

WAC 388-96-221 Preliminary settlement. (1) In the proposed preliminary settlement submitted under WAC 388-96-220(2), a contractor shall compare the prospective rates at which the contractor was paid during the report period, weighted by the number of patient days reported for the period each rate was in effect, to the contractor's allowable costs for the reporting period. The contractor shall take into account all authorized shifting, cost savings, and upper limits to rates on a cost center basis.

(2) Within one hundred twenty days after a proposed preliminary settlement is received, the department shall:

(a) Review proposed preliminary settlement for accuracy, and

(b) Either accept or reject the proposal of the contractor. If accepted, the proposed preliminary settlement shall become the preliminary settlement report. If rejected, the department shall issue, by cost center, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(3) A contractor shall have twenty-eight days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight-day period, the department shall not review or adjust a preliminary settlement report. Any administrative review of a preliminary settlement shall

be limited to calculation of the settlement or the application of settlement principles and rules, or both, and shall not examine or reexamine rate or audit issues.

(4) If no audit is scheduled by the department or if a scheduled audit is not performed within two years of the scheduled date, the department shall perform the preliminary settlement review described in this section with the following exceptions:

(a) For cost centers, the department shall:

(i) Use desk-reviewed costs as the contractor's allowable costs for the reporting period;

(ii) Disallow all costs in excess of the nursing facility's peer group median cost limit as described under WAC 388-96-210; and

(iii) For 1992 and 1993 settlements only, nursing facilities qualifying for the nursing services exception described in WAC 388-96-722(9) will have their 1992 and 1993 nursing services costs limited by the product of their 1992 or 1993 total days, respectively, times their June 30, 1993 nursing services rate.

(b) The department shall calculate the variable portion of return on investment as calculated in the prospective rate;

(c) The department shall base the financing allowance portion of return on investment on audited costs in compliance with provisions contained in this chapter. If audited costs are not available, the department shall use the financing allowance used for rate setting. If an audited financing allowance is later determined, the department shall revise the final settlement to reflect audited financing allowance if payment is changed by $1,000 or more; and

(d) When a complete audit was not performed and audited information is needed for purposes of calculating return on investment, the department may do a partial audit of current or prior year cost report.

(5) Beginning with preliminary settlements for report year 1988, if the department intends to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon reported costs. If the department does not intend to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon desk-reviewed costs utilizing the procedure under subsection (4) of this section.

(6) If the facility prevents, hinders, or otherwise delays completion of a full field audit, that facility's preliminary settlement issued on reported costs may be reopened to substitute desk-reviewed costs.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-221, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-221, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.09.120 and 74.46.800. 89-11-100 (Order 2799), § 388-96-221, filed 5/24/89. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-221, filed 12/23/87. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-221, filed 9/16/83.]

WAC 388-96-224 Final settlement. (1) If an audit is conducted, the department shall issue a final settlement report to the contractor after completion of the audit process, including exhaustion or termination of any administrative review and appeal of audit findings or determinations requested by the contractor, but not including judicial review as may be available to and commenced by the contractor. The department shall prepare the final settlement by cost center and shall fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. For the final settlement report, the department shall compare:

(a) The prospective rate the contractor was paid for the facility in question during the report period, weighted by the number of resident days reported for the period each rate was in effect as verified by audit, to

(b) The contractor's audited allowable costs for the reporting period.

The department shall take into account all authorized shifting, cost savings, and upper limits to rates on a cost center basis.

(2) A contractor shall have twenty-eight days after receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight-day period, the department shall not review a final settlement report. Any administrative review of a final settlement shall be limited to calculation of the settlement or the application of settlement principles and rules, or both, and shall not examine or reexamine rate or audit issues.

(3) The department shall reopen a final settlement if it is necessary to make adjustments based upon findings resulting from an audit performed pursuant to RCW 74.46.105. The department may also reopen a final settlement to recover an industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to a contractor's medical care recipients, pursuant to RCW 74.46.180(5).

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-224, filed 9/12/95, effective 10/13/95. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-224, filed 12/23/87. Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-060 (Order 2240), § 388-96-224, filed 6/18/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-224, filed 9/16/83.]

WAC 388-96-229 Procedures for overpayments and underpayments. (1) Within sixty days after the preliminary or final settlement is received by the contractor, the department shall make payment of underpayments to which a contractor is entitled as determined by the department under the provisions of chapter 74.46 RCW and this chapter.

(2) The department shall pay interest to a contractor at the rate of one percent per month on any preliminary or final settlement balance still due the contractor sixty days after the contractor receives the preliminary or final settlement. Interest shall commence to accrue after such sixty-day period and no interest shall accrue or be paid to a contractor prior to this date. Any increase in a preliminary or final settlement amount due a contractor resulting from a final administrative or judicial decision shall also bear interest until paid at the rate of one percent per month, accruing from sixty days after the preliminary or final settlement was received by the contractor. The department shall pay no interest on amounts due a contractor other than amounts determined by preliminary or final settlement as authorized by this subsection.

(3) A contractor found, under a preliminary or final settlement issued by the department, to have received overpayments or payments in error, as determined by the

department pursuant to the provisions of chapter 74.46 RCW and this chapter, shall refund such payments to the department within sixty days after receipt of the preliminary or final settlement report as applicable. Contractors shall refund to the department funds reimbursed in the enhancement cost center, but not spent in the legislatively authorized manner. For all preliminary or final settlements issued on and after July 1, 1995, regardless of what period a settlement covers, neither a timely-filed request to pursue administrative review as provided in this chapter nor commencement of judicial review, as may be available to a contractor in law, contesting the settlement, erroneous payments or underpayments shall delay recovery of amounts due the department by any authorized means, including recoupment from current payments due a contractor.

(4) If a contractor fails to make repayment of amounts due the department as determined by preliminary or final settlement, the department shall:

(a) Deduct from current monthly amounts due the contractor the refund due the department and accrued interest as authorized in this section on the unpaid balance at the rate of one percent per month; or

(b) If the contract has been terminated:

(i) Deduct from any amounts due the old contractor the refund due the department and accrued interest as authorized in this section on the unpaid balance at the rate of one percent per month;

(ii) Recover the refund due the department and accrued interest as authorized in this section on the unpaid balance at the rate of one percent per month from security posted by the old contractor or otherwise obtained by the department; and/or

(iii) Pursue, as authorized by law and regulation, recovery of the refund due and accrued interest as authorized in this section on the unpaid balance at the rate of one percent per month.

(5) A contractor shall pay interest to the department at the rate of one percent per month on any preliminary or final settlement balance still due the department at the expiration of sixty days after the contractor receives the preliminary or final settlement. Interest shall commence to accrue after such sixty-day period and no interest shall accrue or be paid to the department prior to this date. The department shall adjust interest owed by a contractor or refund all or a portion of interest collected from the contractor, as applicable, in the event a final administrative or judicial decision reduces or eliminates a preliminary or final settlement amount owed by the contractor.

(6) For all erroneous payments and overpayments determined by preliminary or final settlements issued before July 1, 1995:

(a) The department shall not withhold from current amounts due the facility any refund or interest the department claims to be due from the facility, provided the refund is specifically disputed by the contractor on review or appeal;

(b) Portions of refunds due the department, not specifically disputed by the contractor on review or appeal, are subject to recovery thirty days after the preliminary or final settlement is received by the contractor and assessment of interest at the rate of one percent per month on any unpaid balance accruing thirty days after the preliminary or final settlement report is received by the contractor until paid in full; and

(c) If the administrative or judicial remedy sought by the facility is not granted or is granted only in part after exhaustion or mutual termination of all appeals, the facility shall refund all amounts due the department within sixty days after the date of decision or termination plus interest as payable on judgments from the date the review was requested pursuant to WAC 388-96-901 and 388-96-904 to the date the repayment is made.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-229, filed 9/12/95, effective 10/13/95. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-229, filed 12/23/87. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-229, filed 9/16/83.]

WAC 388-96-384 Liquidation or transfer of resident personal funds. (1) Upon the death of a resident, the facility shall promptly convey the resident's personal funds held by the facility with a final accounting of such funds to the department or to the individual or probate jurisdiction administering the resident's estate.

(a) If the deceased resident was a recipient of long-term care services paid for in whole or in part by the state of Washington then the personal funds held by the facility and the final accounting shall be sent to the state of washington, department of social and health services, office of financial recovery (or successor office).

(b) The personal funds of the deceased resident and final accounting must be conveyed to the individual or probate jurisdiction administering the resident's estate or to the state of Washington, department of social and health services, office of financial recovery (or successor office) no later than the forty-fifth day after the date of the resident's death.

(i) When the personal funds of the deceased resident are to be paid to the state of Washington, those funds shall be paid by the facility with a check, money order, certified check or cashiers check made payable to the secretary, department of social and health services, and mailed to the Office of Financial Recovery, Estate Recovery Unit, P.O. Box 9501, Olympia, Washington 98507-9501, or such address as may be directed by the department in the future.

(ii) The check, money order, certified check or cashier's check or the statement accompanying the payment shall contain the name and social security number of the deceased individual from whose personal funds account the monies are being paid.

(c) The department of social and health services shall establish a release procedure for use of funds necessary for burial expenses.

(2) In situations where the resident leaves the nursing home without authorization and the resident's whereabouts is unknown:

(a) The nursing facility shall make a reasonable attempt to locate the missing resident. This includes contacting:

(i) Friends,

(ii) Relatives,

(iii) Police,

(iv) The guardian, and

(v) The community services office in the area.

(b) If the resident cannot be located after ninety days, the nursing facility shall notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.29 RCW. The nursing facility shall deliver to the department of revenue the balance of the resident's personal funds within twenty days following such notification.

(3) Prior to the sale or other transfer of ownership of the nursing facility business, the facility operator shall:

(a) Provide each resident or resident representative with a written accounting of any personal funds held by the facility;

(b) Provide the new operator with a written accounting of all resident funds being transferred; and

(c) Obtain a written receipt for those funds from the new operator.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-384, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. 90-20-075 (Order 3070), § 388-96-384, filed 9/28/90, effective 10/1/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-384, filed 12/23/87. Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-384, filed 10/13/82; Order 1168, § 388-96-384, filed 11/3/76; Order 1114, § 388-96-384, filed 4/21/76.]

WAC 388-96-501 Allowable costs. (1) Allowable costs are documented costs which are necessary, ordinary and related to the care of medical care recipients, and are not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay.

(2) Beginning with the July 1, 1995 rate period, allowable costs shall not include costs reported by a nursing facility for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the nursing facility in the period to be covered by the prospective rate.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-501, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-501, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-501, filed 6/1/78; Order 1262, § 388-96-501, filed 12/30/77.]

WAC 388-96-585 Unallowable costs. (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) The department shall include, but not limit unallowable costs to the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items covered by the Medicaid program but not included in the Medicaid nursing facility daily payment rate. Items and services covered by the Medicaid nursing facility daily payment rate are listed in chapters 388-86 and 388-88 WAC;

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure inconsistent with applicable standards, criteria, or plans. If the contractor did not give the department timely notice of a proposed capital expenditure, all associated costs shall be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained;

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space);

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or violating principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts. Beginning July 1, 1983, the department shall allow bad debts of Title XIX recipients only if:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future.

Reasonable collection efforts shall consist of three documented attempts by the contractor to obtain payment. Such documentation shall demonstrate the effort devoted to collect the bad debts of Title XIX recipients is at the same level as the effort normally devoted by the contractor to collect the bad debts of non-Title XIX patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery. The department shall compensate a contractor for bad debts of Title XIX recipients at final settlement through the final settlement process only.

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care;

(r) Fund-raising expenses, except expenses directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;

(u) Federal, state, and other income taxes;

(v) Costs of special care services except where authorized by the department;

(w) Expenses of any employee benefit not in fact made available to all employees on an equal or fair basis in terms of costs to employees and benefits commensurate to such costs, e.g., key-man insurance, other insurance, or retirement plans;

(x) Expenses of profit-sharing plans;

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

(z) Personal expenses and allowances of owners or relatives;

(aa) All expenses for membership in professional organizations and all expenses of maintaining professional licenses, e.g., nursing home administrator's license;

(bb) Costs related to agreements not to compete;

(cc) Goodwill and amortization of goodwill;

(dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;

(ee) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where:

(i) A final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or

(ii) In connection with a fair hearing, a final administrative decision has not been rendered; or

(iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final administrative decision has been rendered at the end of the report period; or

(iv) In connection with a fair hearing, related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered.

(ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions;

(gg) Lease acquisition costs and other intangibles not related to patient care;

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds;

(ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs;

(jj) Beginning January 1, 1985, interest costs;

(kk) Travel expenses outside the states of Idaho, Oregon, and Washington, and the Province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care;

(ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year;

(mm) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia;

(nn) For rates effective after June 30, 1993, depreciation expense in excess of four thousand dollars per year for each passenger car or other vehicles primarily used for the administrator, facility staff, or central office staff;

(oo) Any costs associated with the use of temporary health care personnel from any nursing pool not registered with the director of the department of health at the time of such pool personnel use;

(pp) Costs of payroll taxes associated with compensation in excess of allowable compensation for owners, relatives, and administrative personnel;

(qq) Department-imposed postsurvey charges incurred by the facility as a result of subsequent inspections which occur beyond the first postsurvey visit during the certification survey calendar year;

(rr) For all partial or whole rate periods after July 17, 1984, costs of assets, including all depreciable assets and land, which cannot be reimbursed under the provisions of the Deficit Reduction Act of 1984 (DEFRA) and state statutes and regulations implementing DEFRA;

(ss) Effective for July 1, 1991, and all following rates, compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensations which would have been paid for such hours of nursing care services had they been paid at the combined regular and overtime average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification of registered nurse, licensed practical nurse, or nursing assistant at the same nursing facility, as reported on the facility's filed cost report for the most recent cost report period;

(tt) Outside consultation expenses required pursuant to WAC 388-88-135;

(uu) Fees associated with filing a bankruptcy petition under chapters VII, XI, and XIII, pursuant to the Bankruptcy Reform Act of 1978, Public Law 95-598;

(vv) All advertising or promotional costs of any kind, except reasonable costs of classified advertising in trade journals, local newspapers, or similar publications for employment of necessary staff;

(ww) Costs reported by the contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the contractor in the period to be covered by the rate.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-585, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-585, filed 5/26/94, effective 6/26/94; 93-17-033 (Order 3615), § 388-96-585, filed

8/11/93, effective 9/11/93. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-585, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.09.120. 91-22-025 (Order 3270), § 388-96-585, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 74.09.120 and 74.46.800. 90-09-061 (Order 2970), § 388-96-585, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.46.800. 89-17-030 (Order 2847), § 388-96-585, filed 8/8/89, effective 9/8/89. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-585, filed 12/21/88. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-585, filed 4/20/87; 86-10-055 (Order 2372), § 388-96-585, filed 5/7/86, effective 7/1/86; 84-12-039 (Order 2105), § 388-96-585, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-585, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-585, filed 10/13/82; 82-11-065 (Order 1808), § 388-96-585, filed 5/14/82; 81-22-081 (Order 1712), § 388-96-585, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-585, filed 2/25/81. Statutory Authority: RCW 74.09.120. 79-04-102 (Order 1387), § 388-96-585, filed 4/4/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-585, filed 6/1/78; Order 1262, § 388-96-585, filed 12/30/77.]

WAC 388-96-704 Prospective reimbursement rates. (1) The department, as provided in chapter 74.46 RCW and this chapter, shall determine or adjust prospective Medicaid payment rates for nursing facility services provided to medical care recipients. Each rate represents a nursing facility's maximum compensation for one resident day of care provided a medical care recipient determined by the department to both require and be eligible to receive nursing facility care.

(2) A contractor may also be assigned an individual prospective rate for a specific medical care recipient determined by the department to require exceptional care.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-704, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-704, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-704, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-704, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-704, filed 1/9/78.]

WAC 388-96-709 Prospective rate revisions—Reduction in licensed beds. (1) The department will revise a contractor's prospective rate when the contractor reduces the number of its licensed beds and:

(a) Notifies the department in writing thirty days before the licensed bed reduction; and

(b) Supplies a copy of the new bed license and documentation of the number of beds sold, exchanged or otherwise placed out of service, along with the name of the contractor that received the beds, if any; and

(c) Requests a rate revision.

(2) The revised prospective rate shall comply with all the provisions of rate setting contained in this chapter including all lids and maximums unless otherwise specified in this section and shall remain in effect until an adjustment can be made for economic trends and conditions as authorized by chapter 74.46 RCW and this chapter.

(3) The revised prospective rate shall be effective the first of a month determined by where in the month the effective date of the licensed bed reduction occurs or the date the contractor complied with subsections 1(a), (b), and (c) of this section as follows:

(a) If the contractor complied with subsection (1)(a), (b), and (c) of this section and the effective date of the reduction falls:

(i) Between the first and the fifteenth of the month, then the revised prospective rate is effective the first of the month in which the reduction occurs; or

(ii) Between the sixteenth and the end of the month, then the revised prospective rate is effective the first of the month following the month in which the reduction occurs; or

(b) When the contractor fails to comply with subsection 1(a) of this section, then the date the department receives from the contractor the documentation that is required by subsection (1)(b) and (c) of this section shall become the effective date of the reduction for the purpose of applying subsection (3)(a)(i) and (ii) of this section.

(4) For all prospective Medicaid payment rates from July 1, 1995 through June 30, 1998, the department shall revise a nursing facility's prospective rate to reflect a reduction in licensed beds as follows:

(a) The department shall use the reduced total number of licensed beds to determine occupancy used to calculate the nursing services, food, administrative and operational rate components per WAC 388-96-719. If actual occupancy from the 1994 cost report was:

(i) At or over ninety percent before the reduction and remains at or above ninety percent, there will be no change to the components;

(ii) Less than ninety percent before the reduction and changes to at or above ninety percent, then recompute the components using actual 1994 resident days;

(iii) Less than ninety percent before the reduction and remains below ninety percent, then recompute the components using the change in resident days from the 1994 cost report resulting from the reduced number of licensed beds used to calculate the ninety percent.

(b) The department shall use the reduced number of licensed beds to determine occupancy used to calculate the property and return on investment (ROI) components per WAC 388-96-719. If actual occupancy from the cost report from the calendar year immediately prior to the bed reduction was:

(i) At or over ninety percent before the reduction and remains at or above ninety percent, then recompute property and ROI to reflect the new asset basis using actual days from the cost report for the prior calendar year;

(ii) Less than ninety percent before the reduction and changes to at or above ninety percent, then recompute property and ROI to reflect the new asset basis using actual days from the cost report for the prior calendar year;

(iii) Less than ninety percent before the reduction and remains below ninety percent, then recompute property and ROI to reflect the new asset basis using the change in resident days from the cost report for the prior calendar year resulting from the reduced number of licensed beds used to calculate the ninety percent.

(c) Reported occupancy must represent at least six months of data.

(d) The department will utilize a minimum of eighty-five percent occupancy in subsections (4)(a), (b), and (c) of this section for those facilities authorized in chapter 74.46 RCW and this chapter.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-709, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-709, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-709, filed 5/26/93, effective 6/26/93.]

WAC 388-96-710 Prospective reimbursement rate for new contractors. (1) The department shall establish an initial prospective Medicaid payment rate for a new contractor as defined under WAC 388-96-026 (1)(a) or (b) within sixty days following receipt by the department of a properly completed projected budget (see WAC 388-96-026). The rate shall take effect as of the effective date of the contract and shall comply with all the provisions of rate setting contained in chapter 74.46 RCW and in this chapter, including all lids and maximums set forth. The rate shall remain in effect for the nursing facility until the rate can be reset effective July 1 using the first cost report for that facility under the new contractor's operation containing at least six months' data from the prior calendar year, regardless of whether reported costs for facilities operated by other contractors for the prior calendar year in question will be used to cost rebase their July 1 rates. The new contractor's rate shall be cost rebased as provided in this subsection only once during the period July 1, 1995 through June 30, 1998.

(2) To set the initial prospective Medicaid payment rate for a new contractor as defined in WAC 388-96-026 (1)(a) and (b), the department shall:

(a) Determine whether the new contractor nursing facility belongs to the metropolitan statistical area (MSA) peer group or the non-MSA peer group using the latest information received from the office of management and budget or the appropriate federal agency;

(b) Select all nursing facilities from the department's records of all the current Medicaid nursing facilities in the new contractor's peer group with the same bed capacity plus or minus ten beds. If the selection does not result in at least seven facilities, then the department will increase the bed capacity by plus or minus five bed increments until a sample of at least seven nursing facilities is obtained;

(c) Based on the information for the nursing facilities selected under subsection (2)(b) of this section and available to the department on the day the new contractor began participating in the Medicaid payment rate system at the facility, rank from the highest to the lowest the component rates in nursing services, food, administrative, and operational cost centers and based on this ranking:

(i) Determine the middle of the ranking and then identify the rate immediately above the median for each cost center identified in subsection (2)(c) of this section. The rate immediately above the median will be known as the "selected rate" for each cost center; and

(ii) Set the new contractor's nursing facility component rates for each cost center identified in subsection (2)(c) at the lower of the "selected rate" or the budget rate; and

(iii) Set the property rate in accordance with the provisions of this chapter; and

(iv) Set the return on investment rate in accordance with the provisions of this chapter. In computing the financing allowance, the department shall use for the nursing services, food, administrative, and operational cost centers the rates set pursuant to subsection (2)(c)(i) and (ii) of this section.

(d) Any subsequent revisions to the rate components of the sample members will not impact a "selected rate" component of the initial prospective rate established for the new contractor under this subsection; *unless*, a "selected rate" identified in subsection (2)(c) is at the median cost limit established for July 1, then the median cost limit established after October 31 for that "selected rate" component becomes the component rate for the new contractor.

(3) The department shall establish rates for:

(a) Nursing services, food, administrative and operational cost centers based on the "selected rates" as determined under subsection (2)(c) of this section that are in effect on the date the new contractor began participating in the program; and

(b) Property in accordance with the provisions of this chapter using for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the property rate will be zero. The property rate will remain zero until the information is received.

(c) Return on investment rate in accordance with the provisions of this chapter using the "selected rates" established under subsection (2)(c) of this section that are in effect on the date the new contractor began participating in the program, to compute the working capital provision and variable return for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the net book value of allowable assets will be zero. The financing allowance rate component will remain zero until the information is received.

(4) The initial prospective reimbursement rate for a new contractor as defined under WAC 388-96-026 (1)(c) shall be the last prospective reimbursement rate paid by the department to the Medicaid contractor operating the nursing facility immediately prior to the effective date of the new contract. If the WAC 388-96-026 (1)(c) contractor's initial rate:

(a) Was set before January 1, 1995, its July 1, 1995 rate will be set by using twelve months of cost report data derived from the old contractor's data and the new contractor's data for the 1994 cost report year and its July 1, 1996 and July 1, 1997 rates will not be cost rebased;

(b) Was set between January 1, 1995 and June 30, 1995, its July 1, 1995 rate will be set by using the old contractor's 1994 twelve months' cost report data and its July 1, 1996 and July 1, 1997 rates will not be cost rebased; or

(c) Is set on or after July 1, 1995, its July 1, 1996 and July 1, 1997 rates will not be cost rebased.

(5) A prospective rate set for a new contractor shall be subject to adjustments for economic tends and conditions as authorized and provided in this chapter and in chapter 74.46 RCW.

(6) A new contractor whose Medicaid contract was effective in calendar year 1994 and whose nursing facility occupancy during calendar year 1994 increased by at least five percent over that of the prior operator, shall have its July 1, 1995 component rates for the nursing services, food, administrative, operational and property cost centers, and its the return on investment (ROI) component rate, based upon a minimum occupancy of eighty-five percent.

(7) Notwithstanding any other provision in this chapter, for rates effective July 1, 1995 and following, for nursing facilities receiving original certificate of need approval prior to June 30, 1988, and commencing operations on or after January 1, 1995, the department shall base initial nursing services, food, administrative,and operational rate components on such component rates immediately above the median for facilities in the same county. Property and return on investment rate components shall be established as provided in chapter 74.46 RCW and this chapter.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-710, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-710, filed 5/26/94, effective 6/26/94; 93-17-033 (Order 3615), § 388-96-710, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-710, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-710, filed 7/23/92, effective 8/23/92. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-710, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-710, filed 4/20/87. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-710, filed 9/16/83; 78-02-013 (Order 1264), § 388-96-710, filed 1/9/78.]

WAC 388-96-713 Rate determination. (1) Each nursing facility's Medicaid payment rate for services provided to medical care recipients will be determined prospectively as provided in this chapter and in chapter 74.46 RCW to be effective July 1 of 1995, 1996, and 1997 and may be adjusted more frequently to take into account program changes.

(2) If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) Beginning with rates effective July 1, 1984, contractors submitting correct and complete cost reports by March 31st, shall be notified of their rates by July 1st, unless circumstances beyond the control of the department interfere.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-713, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-713, filed 9/14/93, effective 10/15/93; 90-09-061 (Order 2970), § 388-96-713, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-713, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-713, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-713, filed 5/30/80, effective 7/1/80; 78-02-013 (Order 1264), § 388-96-713, filed 1/9/78.]

WAC 388-96-716 Cost areas or cost centers. (1) A nursing facility's total per resident day Medicaid payment rate for services provided to medical care recipients shall consist of six component rates, five relating to cost areas or cost centers and a return on investment (ROI) component rate. The five cost areas or cost centers are:

(a) Nursing services;

(b) Food;

(c) Administrative;

(d) Operational;

(e) Property

(2) For prospective rates from July 1, 1995 through June 30, 1998, the maximum component rates for the nursing services, food, administrative, operational and property cost centers and the return on investment (ROI) component rate for each nursing facility shall be calculated utilizing a minimum licensed bed occupancy of ninety percent, unless a minimum occupancy of eighty-five percent is specifically authorized under certain circumstances by chapter 74.46 RCW and this chapter.

(3) The minimum ninety percent facility occupancy shall be used to calculate individual nursing facility component rates in all cost centers, to calculate the median cost limits (MCLs) for the metropolitan statistical area (MSA) and nonmetropolitan statistical area (non-MSA) peer groups, and to array facilities by costs in calculating the variable return portion of the return on investment (ROI) component rate.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-716, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-716, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-716, filed 7/23/92, effective 8/23/92. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-716, filed 12/23/87. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-716, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-716, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-716, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-716, filed 5/30/80, effective 7/1/80; 78-02-013 (Order 1264), § 388-96-716, filed 1/9/78.]

WAC 388-96-719 Method of rate determination. (1) Effective July 1, 1995 through June 30, 1998, nursing facility Medicaid payment rates shall be rebased or adjusted for economic trends and conditions annually and prospectively, on a per resident day basis, in accordance with the principles and methods set forth in chapter 74.46 RCW and this chapter, to take effect July 1st of each year. Unless the operator qualifies as a "new contractor" under the provisions of this chapter, a nursing facility's rate for July 1, 1995 must be established upon its own calendar year cost report data for 1994 covering at least six months.

(2) July 1, 1995 component rates in the nursing services, food, administrative and operational cost centers shall be cost-rebased utilizing desk-reviewed and adjusted costs reported for calendar year 1994, for all nursing facilities submitting at least six months of cost data. Such component rates for July 1, 1995 shall also be adjusted upward or downward for economic trends and conditions as provided in RCW 74.46.420 and in this section. Component rates in property and return on investment (ROI) shall be reset annually as provided in chapter 74.46 RCW and in this chapter.

(3) July 1, 1995 component rates in the nursing services, food, administrative and operational cost centers shall be adjusted by the change in the Implicit Price Deflator for Personal Consumption Expenditures Index ("IPD index"). The period used to measure the IPD increase or decease to

be applied to these July 1, 1995 rate components shall be calendar year 1994.

(4) July 1, 1996 component rates in the nursing services, food, administrative and operational cost centers shall not be cost-rebased, but shall be the component rates in these cost centers assigned to each nursing facility in effect on June 30, 1996, adjusted downward or upward for economic trends and conditions by the change in the nursing home input price index without capital costs published by the Health Care Financial Administration of the United States Department of Health and Human Services (HCFA index). The period to be used to measure the HCFA index increase or decrease to be applied to these June 30, 1996 component rates for July 1, 1996 rate setting shall be calendar year 1994.

(5) July 1, 1997 component rates in the nursing services, food, administrative and operational cost centers shall not be cost-rebased, but shall be the component rates in these cost centers assigned to each nursing facility in effect on June 30, 1997, adjusted downward or upward for economic trends and conditions by the change in the nursing home input price index without capital costs published by the Health Care Financing Administration of the United States Department of Health and Human Services (HCFA index), multiplied by a factor of 1.25. The period to be used to measure the HCFA index increase or decrease to be applied to these June 30, 1997 component rates for July 1, 1997 rate setting shall be calendar year 1996.

(6) The 1994 change in the IPD index to be applied to July 1, 1995 component rates in the nursing services, food, administrative and operational costs centers, as provided in subsection (3) of this section, shall be calculated by:

(a) Consulting the latest quarterly IPD index available to the department no later than February 28, 1995 to determine, as nearly as possible, applicable expenditure levels as of December 31, 1994;

(b) Subtracting from expenditure levels taken from the quarterly IPD index described in subsection (6)(a) of this section expenditure levels taken from the IPD index for the quarter occurring one year prior to it; and

(c) Dividing the difference by the level of expenditures from the quarterly IPD index occurring one year prior to the quarterly IPD index described in subsection (6)(a) of this section.

(7) In applying the change in the IPD index to establish July 1, 1995 component rates in the nursing services, food, administrative and operational cost centers for a contractor having at least six months, but less than twelve months, of cost report data from calendar year 1994, the department shall prorate the downward or upward adjustment by a factor obtained by dividing the contractor's actual calendar days from 1994 cost report data by two, adding three hundred sixty-five, and dividing the resulting figure by five hundred forty-eight.

(8) The change in the HCFA index to be applied to each nursing facility's June 30, 1996 and June 30, 1997 component rates in nursing services, food, administrative and operational cost centers, as provided in subsections (4) and (5) of this section, shall be calculated by:

(a) Consulting the latest quarterly HCFA index available to the department no later than February 28 following the applicable calendar year to be used to measure the change to determine, as nearly as possible, the applicable price levels as of December 31 of the applicable calendar year;

(b) Subtracting from the price levels taken from the quarterly HCFA index described in subsection (8)(a) of this section the price levels taken from the HCFA index for the quarter occurring one year prior to it; and

(c) Dividing the difference by the price levels from the quarterly HCFA index occurring one year prior to the quarterly HCFA index described in subsection (8)(a).

(9) If either the Implicit Price Deflator for Personal Consumption Expenditures (IDP) index or the Health Care Financing Administration (HCFA) index specified in this section ceases to be available, the department shall select and use in its place or their place one or more measures of change utilizing the same or comparable time periods specified in this section.

(10) The department shall compute the occupancy level for each facility by dividing the actual number of resident days by the product of the number of licensed beds and calendar days in the 1994 cost report period. If a facility's occupancy is below ninety percent, the department shall compute per resident day nursing services, food, administrative and operational prospective component rates and limits utilizing resident days at the ninety percent occupancy level. The department shall use actual occupancy level for facilities at or above ninety percent occupancy for 1994. The higher of ninety percent occupancy or actual facility occupancy for 1994 shall be used in establishing these component rates for July 1, 1995, July 1, 1996, and July 1, 1997. The department shall compute per resident day property and return on investment prospective component rates utilizing resident days at the higher of ninety percent occupancy or actual facility occupancy for the prior calendar year for July 1, 1995, July 1, 1996, and July 1, 1997.

(11) If a nursing facility has full-time residents other than those receiving nursing facility care:

(a) The facility may request in writing, and

(b) The department may grant in writing an exception to the requirements of subsection (10) of this section by including such other full-time residents in computing occupancy. Exceptions granted shall be revocable effective ninety days after written notice of revocation is received from the department. The department shall not grant an exception unless the contractor submits with the annual cost report a certified statement of occupancy including all residents of the facility and their status or level of care.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-719, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-719, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-719, filed 9/14/93, effective 10/15/93; 90-09-061 (Order 2970), § 388-96-719, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-719, filed 12/23/87. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-719, filed 8/19/85. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-719, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-719, filed 9/16/83; 82-17-071 (Order 1867), § 388-96-719, filed 8/18/82; 82-12-068 (Order 1820), § 388-96-719, filed 6/2/82; 82-04-073 (Order 1756), § 388-96-719, filed 2/3/82; 81-15-049 (Order 1669), § 388-96-719, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-719, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-719, filed 11/30/79; 78-11-043 (Order 1353), § 388-96-719, filed 10/20/78. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-

96-719, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-719, filed 1/9/78.]

WAC 388-96-722 Nursing services cost area rate. (1) The nursing services cost center shall include for reporting and auditing purposes all costs relating to the direct provision of nursing and related care, including fringe benefits and payroll taxes for nursing and related care personnel and for the cost of nursing supplies. The cost of one-to-one care shall include care provided by qualified therapists and their employees only to the extent the costs are not covered by Medicare, part B, or any other coverage.

(2) In addition to other limits contained in this chapter, the department shall subject nursing service costs to a test for nursing staff hours according to the procedures set forth in subsection (3) of this section.

(3) The test for nursing staff hours referenced in subsection (2) of this section shall use a regression of hours reported by facilities for registered nurses, licensed practical nurses, and nurses' assistants, including:

(a) Purchased and allocated nursing and assistant staff time; and

(b) The average patient debility score for the corresponding facilities as computed by the department. The department shall compute the regression only once for determination of rates from July 1, 1995 through June 30, 1998 and shall take data for the regression from:

(i) Correctly completed 1994 cost reports; and

(ii) Patient assessments completed by nursing facilities and transmitted to the department in accordance with the minimum data set (MDS) format and instructions, as may be corrected after departmental audit or other investigation, for the corresponding calendar report year and available at the time the regression equation is computed. Effective January 1, 1988, the department shall not include the hours associated with off-site or class room training of nursing assistants and the supervision of such training for nursing assistants in the test for nursing staff hours. The department shall calculate and set for each facility a limit on nursing and nursing assistant staffing hours at predicted staffing hours plus 1.75 standard errors, utilizing the regression equation calculated by the department. The department shall reduce costs for facilities with reported hours exceeding the limit by an amount equivalent to:

(A) The hours exceeding the limit;

(B) Times the average wage rate for nurses and assistants indicated on cost reports for the year in question, including benefits and payroll taxes allocated to such staff. The department shall provide contractors' reporting hours exceeding the limit the higher of their January 1983 patient care rate or the nursing services rate computed for them according to the provisions of this subsection, plus applicable inflation adjustments.

(4) For all rates effective after June 30, 1991, nursing services costs, as reimbursed within this chapter, shall not include costs of any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement (commonly referred to as "nursing pool" services), in excess of the amount of compensation which would have been paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period.

(5) Staff of like classification shall mean only the nursing classifications of registered nurse, licensed practical nurse or nurse assistant. The department shall not recognize particular individuals, positions or subclassifications within each classification for whom pool staff may be substituting or augmenting. The department shall derive the facility average hourly wage for each classification by dividing the total allowable regular and overtime salaries and wages, including related taxes and benefits, paid to facility staff in each classification divided by the total allowable hours worked for each classification. All data used to calculate the average hourly wage for each classification shall be taken from the cost report on file with the department's rates management office for the most recent cost report period.

(6) For July 1, 1995 rate setting only, the department shall determine peer group median cost plus limits for the nursing services cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be those nursing facilities:

(i) Located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Not located within such an area (non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per resident day adjusted nursing services cost from the 1994 cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the 1994 cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate add-ons, granted under the authority of WAC 388-96-774 and WAC 388-96-777 and commencing in the 1994 cost report year, shall be included in costs arrayed. Costs current-funded by rate add-ons commencing January 1 through June 30, 1995 shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility cost in nursing services for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted nursing services cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the nursing services cost area prior to issuing new July 1 rates.

(7) For July 1, 1995 rate setting only, nursing services component rates for facilities within each peer group shall be set at the lower of:

(a) The facility's adjusted per patient day nursing services cost from the 1994 report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing services cost for the facility's peer group using the 1994 calendar year report data plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(8) Rate add-ons made to current fund nursing services costs, pursuant to WAC 388-96-774 and WAC 388-96-777 and commencing in the 1994 cost report year, shall be reflected in July 1, 1995 prospective rates only by their inclusion in the costs arrayed. A facility shall not receive, based on any calculation or consideration of any such 1994 report year rate add-ons, a July 1, 1995 nursing services rate higher than that provided in subsection (7) of this section.

(9) For July 1, 1995 and following rate settings, the department shall add nursing services rate add-ons, granted under authority of WAC 388-96-774 and WAC 388-96-777 to a nursing facility's rate in nursing services, but only up to the facility's peer group median cost plus twenty-five percent limit as follows:

(a) For July 1, 1995, add-ons commencing in the preceding six months;

(b) For July 1, 1996, add-ons commencing in the preceding eighteen months; and

(c) For July 1, 1997, add-ons commencing in the preceding thirty months.

(10) Subsequent to issuing July 1, 1995 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted nursing services cost report information in departmental records as of October 31, 1995. For any facility which would have received a higher or lower July 1, 1995 component rate in nursing services based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's nursing services component rate reflecting the recalculation, retroactive to July 1, 1995.

(11) For both the initial calculation of peer group median costs and the recalculation based on adjusted nursing services cost information as of October 31, 1995, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs, once calculated using October 31, 1995 adjusted cost information, shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(12) Neither the per patient day peer group median plus twenty-five percent limit for nursing services cost nor the test for nursing staff hours authorized in this section shall apply to the pilot facility designated to meet the needs of persons living with AIDS as defined by RCW 70.24.017 and specifically authorized for this purpose under the 1989 amendment to the Washington state health plan. The AIDS pilot facility shall be the only facility exempt from these limits.

(13) For rates effective July 1, 1996, a nursing facility's noncost-rebased component rate in nursing services shall be that facility's nursing services component rate existing on June 30, 1996, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1996, nursing services component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective nursing services component rate as of June 30, 1996, excluding any rate increases granted from January 1, 1996 to June 30, 1996, pursuant to RCW 74.46.460, WAC 388-96-774, and 388-96-777.

(14) For rates effective July 1, 1997, a nursing facility's noncost-rebased component rate in nursing services shall be that facility's nursing services component rate existing on June 30, 1997, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1997 nursing services component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective nursing services component rate as of June 30, 1997, excluding any rate adjustments granted from January 1, 1997 to June 30, 1997 pursuant to RCW 74.46.460, WAC 388-96-774 and 388-96-777.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-722, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-722, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-722, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-722, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.180 and 74.46.800. 91-22-025 (Order 3270), § 388-96-722, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 74.46.800 and 74.09.120. 91-12-026 (Order 3185), § 388-96-722, filed 5/31/91, effective 7/1/91. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-722, filed 12/21/88. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-722, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-722, filed 4/20/87; 86-10-055 (Order 2372), § 388-96-722, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-722, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-722, filed 9/16/83; 82-11-065 and 82-13-050 (Orders 1808 and 1808A), § 388-96-722, filed 5/14/82 and 6/14/82; 81-15-049 (Order 1669), § 388-96-722, filed 7/15/81; 81-06-024 (Order 1613), § 388-96-722, filed 2/25/81; 80-06-122 (Order 1510), § 388-96-722, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-722, filed 11/30/79. Statutory Authority: RCW 18.51.310 and 74.09.120. 78-11-013 (Order 1349), § 388-96-722, filed 10/9/78. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-722, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-722, filed 1/9/78.]

WAC 388-96-727 Food cost area rate. (1) The food cost center shall include for cost reporting purposes all costs of bulk and raw food and beverages purchased for the dietary needs of the nursing facility residents.

(2) For July 1, 1995 rate setting only, the department shall determine peer group median cost plus limits for the food cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per resident day adjusted food cost from the 1994 cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the 1994 cost report year having at least six months of cost report data shall be used, includ-

ing all closing cost reports covering at least six months. The department shall include costs current-funded by means of rate add-ons, granted under the authority of WAC 388-96-777 and commencing in the 1994 cost report year, in costs arrayed. The department shall exclude costs current-funded by rate add-ons granted under the authority of WAC 388-96-777 and commencing January 1 through June 30, 1995 from costs arrayed.

(c) The median or fiftieth percentile nursing facility food cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted food cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the food cost area prior to issuing new July 1 rates.

(3) For July 1, 1995 rate setting only, food component rates for facilities within each peer group shall be set at the lower of:

(a) The facility's adjusted per patient day food cost from the 1994 report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility food cost for the facility's peer group using the 1994 calendar year report data plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Rate add-ons made to current fund food costs, pursuant to WAC 388-96-777 and commencing in the 1994 cost report year, shall be reflected in July 1, 1995 prospective rates only by their inclusion in the costs arrayed. A facility shall not receive, based on any calculation or consideration of any such 1994 report year rate add-ons, a July 1, 1995 food rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1995 and following rate settings, the department shall add food rate add-ons, granted under authority of WAC 388-96-777, to a nursing facility's rate in food, but only up to the facility's peer group median cost plus twenty-five percent limit as follows:

(a) For July 1, 1995, add-ons commencing in the preceding six months;

(b) For July 1, 1996, add-ons commencing in the preceding eighteen months; and

(c) For July 1, 1997, add-ons commencing in the preceding thirty months.

(6) Subsequent to issuing July 1, 1995 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted food cost report information in departmental records as of October 31, 1995. For any facility which would have received a higher or lower July 1, 1995 component rate in food based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's food rate reflecting the recalculation, retroactive to July 1, 1995.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted nursing services cost information as of October 31, 1995, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs, once calculated utilizing October 31, 1995 adjusted cost information, shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) For rates effective July 1, 1996, a nursing facility's noncost-rebased component rate in food shall be that facility's food component rate existing on June 30, 1996, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1996, food component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective food component rate as of June 30, 1996, excluding any rate increases granted from January 1, 1996 to June 30, 1996 pursuant to RCW 74.46.460 and WAC 388-96-777.

(9) For rates effective July 1, 1997, a nursing facility's noncost-rebased component rate in food shall be that facility's food component rate existing on June 30, 1997, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1997, food component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective food component rate as of June 30, 1997, excluding any rate increases granted from January 1, 1997 to June 30, 1997 pursuant to RCW 74.46.460 and WAC 388-96-777.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-727, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-727, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-727, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-727, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-727, filed 7/15/81; 79-12-085 (Order 1461), § 388-96-727, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-727, filed 1/9/78.]

WAC 388-96-735 Administrative cost area rate. (1) The administrative cost center shall include for cost reporting purposes all administrative, oversight, and management costs, whether incurred at the facility or allocated in accordance with a department-approved joint cost allocation methodology.

(2) For July 1, 1995 rate setting only, the department shall determine peer group median cost plus limits for the administrative cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per resident day adjusted administrative cost from the 1994 cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the 1994 cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. The department shall include costs current-funded by means of rate add-ons, granted under the authority of WAC 388-96-

777 and commencing in the 1994 cost report year in costs arrayed. The department shall exclude costs current-funded by rate add-ons granted under the authority of WAC 388-96-777 and commencing January 1 through June 30, 1995 from costs arrayed.

(c) The median or fiftieth percentile nursing facility administrative cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted administrative cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the administrative cost area prior to issuing new July 1 rates.

(3) For July 1, 1995 rate setting only, administrative component rates for facilities within each peer group shall be set for the at the lower of:

(a) The facility's adjusted per patient day administrative cost from the 1994 report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility administrative cost for the facility's peer group using the 1994 calendar year report data plus ten percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Rate add-ons made to current fund administrative costs, pursuant to WAC 388-96-777 and commencing in the 1994 cost report year, shall be reflected in July 1, 1995 prospective rates only by their inclusion in the costs arrayed. A facility shall not receive, based on the calculation or consideration of any such 1994 report year adjustment, a July 1, 1995 administrative rate higher than that provided in subsection (3) of this section.

(5) For all rate setting beginning July 1, 1995 and following, the department shall add administrative rate add-ons, granted under authority of WAC 388-96-777 to a facility's administrative rate, but only up to the facility's peer group median cost plus ten percent limit as follows:

(a) For July 1, 1995, add-ons commencing in the preceding six months;

(b) For July 1, 1996, add-ons commencing in the preceding eighteen months; and

(c) For July 1, 1997, add-ons commencing in the preceding thirty months.

(6) Subsequent to issuing July 1, 1995 rates, the department shall recalculate the median costs of each peer group based on the most recent adjusted administrative cost report information in departmental records as of October 31, 1995. For any facility which would have received a higher or lower July 1, 1995 administrative component rate based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's administrative rate reflecting the recalculation, retroactive to July 1, 1995.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted administrative cost information as of October 31, 1995 the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs, once calculated utilizing October 31, 1995 adjusted cost information, shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) For rates effective July 1, 1996, a nursing facility's noncost-rebased administrative component rate shall be that facility's administrative component rate existing on June 30, 1996, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1996, administrative component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective administrative component rate as of June 30, 1996, excluding any rate increases granted from January 1, 1996 to June 30, 1996 pursuant to RCW 74.46.460 and WAC 388-96-777.

(9) For rates effective July 1, 1997, a nursing facility's noncost-rebased administrative component rate shall be that facility's administrative component rate existing on June 30, 1997, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1997, administrative component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective administrative component rate as of June 30, 1997, excluding any rate increases granted from January 1, 1997 to June 30, 1997 pursuant to RCW 74.46.460 and WAC 388-96-777.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-735, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-735, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-735, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-735, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-735, filed 9/16/83; 82-11-065 (Order 1808), § 388-96-735, filed 5/14/82; 81-15-049 (Order 1669), § 388-96-735, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-735, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-735, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-735, filed 1/9/78.]

WAC 388-96-737 Operational cost area rate. (1) The operational cost center shall include for cost reporting purposes all allowable costs having a direct relationship to the daily operation of the nursing facility (but not including nursing services and related care, food, administrative, or property costs), whether such operating costs are incurred at the facility or are allocated in accordance with a department-approved joint cost allocation methodology.

(2) For July 1, 1995 rate setting only, the department shall determine peer group median cost plus limits for the operational cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a metropolitan statistical area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per resident day adjusted operational cost from the 1994 cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the 1994 cost report year having

at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate add-ons, granted under the authority of WAC 388-96-774 and WAC 388-96-777 and commencing in the 1994 cost report year, shall be included in costs arrayed. The department shall exclude costs current-funded by rate add-ons commencing January 1 through June 30, 1995 from costs arrayed.

(c) The median or fiftieth percentile nursing facility operational cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted operational cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the operational cost area prior to issuing new July 1 rates.

(3) For July 1, 1995 rate setting only, operational component rates for facilities within each peer group shall be set at the lower of:

(a) The facility's adjusted per patient day operational cost from the 1994 report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility operational cost for the facility's peer group using the 1994 calendar year report data plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Rate add-ons made to current fund operational costs, pursuant to WAC 388-96-774 and WAC 388-96-777 and commencing in the 1994 cost report year, shall be reflected in July 1, 1995 prospective rates only by their inclusion in the costs arrayed. A facility shall not receive, based on the calculation or consideration of any such 1994 report year rate add-ons, a July 1 operational rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1995 and following rate settings, the department shall add operational rate add-ons, granted under authority of WAC 388-96-774 and WAC 388-96-777 to a facility's operational rate, but only up to the facility's peer group median cost plus twenty-five percent limit as follows:

(a) For July 1, 1995, add-ons commencing in the preceding six months;

(b) For July 1, 1996, add-ons commencing in the preceding eighteen months; and

(c) For July 1, 1997, add-ons commencing in the preceding thirty months.

(6) Subsequent to issuing July 1, 1995 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted operational cost report information in departmental records as of October 31, 1995. For any facility which would have received a higher or lower July 1 operational component rate based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's operational rate reflecting the recalculation, retroactive to July 1, 1995.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted operational cost information as of October 31, 1995 the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs, once calculated utilizing October 31, 1995 adjusted cost information, shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) For rates effective July 1, 1996, a nursing facility's noncost-rebased operational component rate shall be that facility's operational component rate existing on June 30, 1996, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1996, operational component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective operational component rate as of June 30, 1996, excluding any rate increases granted from January 1, 1996 to June 30, 1996 pursuant to RCW 74.46.460, WAC 388-96-774 and 388-96-777.

(9) For rates effective July 1, 1997, a nursing facility's noncost-rebased operational component rate shall be that facility's operational component rate existing on June 30, 1997, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1997, operational component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective operational component rate as of June 30, 1997, excluding any rate increases granted from January 1, 1997 to June 30, 1997 pursuant to RCW 74.46.460, WAC 388-96-774 and 388-96-777.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-737, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-737, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-737, filed 9/14/93, effective 10/15/93.]

WAC 388-96-745 Property cost area reimbursement rate. (1) The department shall determine the property cost area component rate for each facility annually, to be effective July 1, 1995, 1996, and 1997 in accordance with this section and any other applicable provisions of this chapter. For July 1, 1995, July 1, 1996, and July 1, 1997 rates, funding granted under the authority of WAC 388-96-776 shall be annualized and subsumed in each of these July 1 prospective rates.

(2) The department shall divide the allowable prior period depreciation costs subject to the provisions of this chapter, adjusted for any capitalized addition or replacements approved by the department, plus

(a) The retained savings from the property cost center as provided in WAC 388-96-228, by

(b) The greater of:

(i) Total resident days for the facility in the calendar year cost report period ending six months prior to each July 1, property component rate commencement date; or

(ii) Resident days for the facility as calculated on ninety or eight-five percent facility occupancy, as applicable in accordance with the provisions of this chapter and chapter 74.46 RCW.

(3) Allowable depreciation costs are defined as the costs of depreciation of tangible assets meeting the criteria specified in WAC 388-96-557, regardless of whether owned or leased by the contractor. The department shall not reimburse depreciation of leased office equipment.

(4) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the calendar year following the capitalized addition or replacement, resident days from the cost report for the calendar year immediately prior to the capitalized addition or replacement that were used in computing the property component rate will be adjusted to the product of the occupancy level derived from the cost report used to compute the property component rate at the time of the increased licensed bed capacity multiplied by the number of calendar days in the calendar year following the increased licensed bed capacity multiplied by the number of licensed beds on the new license. For rate computation purposes the minimum occupancy for the initial property component rate period following the increase in licensed bed capacity shall be eighty-five percent; and for each rate period thereafter that will be rebased, commencing July 1, it shall be ninety percent. If a capitalized addition, replacement, or retirement results in a decreased licensed bed capacity, WAC 388-96-709 will apply.

(5) When a facility is constructed, remodeled, or expanded after obtaining a certificate of need, the department shall determine actual and allocated allowable land cost and building construction cost. Reimbursement for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (4), (5), and (6) of this section. The department shall determine construction class and types through examination of building plans submitted to the department and/or on-site inspections. The department shall use definitions and criteria contained in the *Marshall and Swift Valuation Service* published by the Marshall and Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

(6) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

(a) Architect's fees;

(b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);

(c) Interest on building funds during period of construction and processing fee or service charge;

(d) Sales tax on labor and materials;

(e) Site preparation (including excavation for foundation and backfill);

(f) Utilities from structure to lot line;

(g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.);

(h) Allocations of costs which increase the net book value of the project for purposes of Medicaid reimbursement;

(i) Other items included by the *Marshall and Swift Valuation Service* when deriving the calculator method costs.

(7) The department shall allow such construction costs, at the lower of actual costs or the maximums derived from one of the three tables which follow. The department shall derive the limit from the accompanying table which corresponds to the number of total nursing home beds for the proposed new construction, remodel or expansion. The limit will be the sum of the basic construction cost limit plus the common use area limit which corresponds to the type and class of the new construction, remodel or expansion. The limits calculated using the tables shall be adjusted forward from September 1990 to the average date of construction, to reflect the change in average construction costs. The department shall base the adjustment on the change shown by relevant cost indexes published by Marshall and Swift Publication Company. The average date of construction shall be the midpoint date between award of the construction contract and completion of construction.

BASE CONSTRUCTION COST LIMITS		COMMON-USE AREA COST LIMITS
74 BEDS & UNDER		
Building Class	Base per Bed Limit	Base Limit
A-Good	$50,433	$278,847
A-Avg	$41,141	$227,469
B-Good	$48,421	$267,718
B-Avg	$40,042	$221,392
C-Good	$35,887	$198,421
C-Avg	$27,698	$153,143
C-Low	$21,750	$120,258
D-Good	$33,237	$183,765
D-Avg	$25,716	$142,182
D-Low	$20,298	$112,227

BASE CONSTRUCTION COST LIMITS			COMMON-USE AREA COST LIMITS	
75 TO 120 BEDS				
Building Class	Base Limit	Add per Bed Over 74	Base Limit	Add per Bed Over 74
A-Good	$3,732,076	$48,210	$278,847	$2,808
A-Avg	$3,044,442	$39,327	$227,469	$2,291
B-Good	$3,583,131	$46,286	$267,718	$2,696
B-Avg	$2,963,112	$38,277	$221,392	$2,230
C-Good	$2,655,654	$34,305	$198,421	$1,998
C-Avg	$2,049,668	$26,477	$153,143	$1,542
C-Low	$1,609,531	$20,792	$120,258	$1,211
D-Good	$2,459,506	$31,771	$183,765	$1,851
D-Avg	$1,902,956	$24,582	$142,182	$1,442
D-Low	$1,502,048	$19,403	$112,227	$1,130

BASE CONSTRUCTION COST LIMITS			COMMON-USE AREA COST LIMITS	
121 BEDS AND OVER				
Building Class	Base Limit	Add per Bed Over 120	Base Limit	Add per Bed Over 120
A-Good	$5,949,745	$42,359	$408,015	$2,106
A-Avg	$4,853,505	$34,555	$332,855	$1,718
B-Good	$5,712,287	$40,669	$391,734	$2,022
B-Avg	$4,723,848	$30,142	$323,972	$1,672
C-Good	$4,233,692	$23,264	$290,329	$1,499
C-Avg	$3,267,618	$18,268	$224,092	$1,157
C-Low	$2,565,943	$27,916	$175,971	$ 908
D-Good	$3,920,989	$21,599	$268,911	$1,388
D-Avg	$3,033,727	$17,048	$208,493	$1,081
D-Low	$2,394,592	$19,403	$164,220	$ 848

(8) When some or all of a nursing home's common-use areas are situated in a basement, the department shall exclude some or all of the per-bed allowance shown in the attached tables for common-use areas to derive the construction cost lid for the facility. The amount excluded will be

equal to the ratio of basement common-use areas to all common-use areas in the facility times the common-use area limit in the table. In lieu of the excluded amount, the department shall add an amount calculated using the calculator method guidelines for basements in nursing homes from the Marshall and Swift Publication.

(9) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of:

(a) Actual cost per square foot, including allocations; or

(b) The average per square foot land value of the ten nearest urban or rural nursing facilities at the time of purchase of the land in question. The average land value sample shall reflect either all urban or all rural facilities depending upon the classification of urban or rural for the facility in question. The values used to derive the average shall be the assessed land values which have been calculated for the purpose of county tax assessments.

(10) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3), (4), and (5) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual costs shall be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3), (4), and (5) of this section for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of their financial impact with the request.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-745, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-745, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-745, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-745, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-745, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-745, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-745, filed 4/20/87. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-745, filed 12/4/84.]

WAC 388-96-753 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-754 A contractor's return on investment. (1) The department shall establish for each Medicaid nursing facility a return on investment (ROI) component rate composed of a financing allowance and a variable return allowance. The department shall determine a facility's ROI rate annually in accordance with this section, to be effective July 1, 1995, July 1, 1996, and July 1, 1997.

(2) The department shall rebase a nursing facility's financing allowance annually and shall determine the financing allowance by:

(a) Multiplying the net invested funds of each facility by ten percent and dividing by the greater of:

(i) A nursing facility's total resident days from the most recent cost report period, to which the provisions of WAC 388-96-719 and RCW 74.46.420 shall apply; or

(ii) Resident days calculated on ninety percent or eighty-five percent resident occupancy at the facility, as determined by the provisions of this chapter. Resident day calculations from the most recent cost report shall correspond to the following:

(A) If the nursing facility cost report covers twelve months, annual resident days from the contractor's most recent twelve month cost report period; or

(B) If the nursing facility cost report covers less than twelve months but more than six months, annualized resident days and working capital costs based upon data in the cost report; or

(C) If a capitalized addition or replacement results in an increased licensed bed capacity during the calendar year following the capitalized addition or replacement, the total resident days from the cost report immediately prior to the capitalized addition or replacement that were used in computing the financing and variable return allowances will be adjusted to the product of the occupancy level derived from the cost report used to compute the financing and variable return allowances at the time of the increased licensed bed capacity multiplied by the number of calendar days in the calendar year following the increased licensed bed capacity multiplied by the number of licensed beds on the new license; or

(D) If a capitalized addition or retirement of an asset results in a decreased licensed bed capacity WAC 388-96-709 will apply.

(b) For July 1, 1995 rate setting, the working capital portion of net invested funds at a nursing facility shall be five percent of the sum of a contractor's costs from the cost report year used to establish the contractor's prospective component rates in the nursing services, food, administrative, and operational cost centers that have been adjusted for economic trends and conditions under authority of WAC 388-96-719 and RCW 74.46.420 and five percent of allowable property cost.

(c) For July 1, 1996 rate setting, the working capital portion of net invested funds shall be five percent of the sum of the July 1, 1996 prospective component rates, excluding any rate increases granted from January 1, 1996 to June 30, 1996 pursuant to RCW 74.46.460, WAC 388-96-774 and 388-96-777, for the nursing services, food, administrative, and operational cost centers multiplied by resident days as defined in subsection (2)(a) (ii)(A), (B), (C), and (D) of this section from calendar year 1995, adjusted for economic trends and conditions granted under authority of WAC 388-96-719 plus the desk reviewed property costs from the cost report for calendar year 1995;

(d) For July 1, 1997 rate setting, the working capital portion of net invested funds shall be five percent of the sum of the July 1, 1997 prospective component rates, excluding any rate increases granted from January 1, 1997 to June 30, 1997 pursuant to RCW 74.46.460, WAC 388-96-774 and 388-96-777, for the nursing services, food, administrative and operational cost centers multiplied by resident days as defined in subsection (2)(a)(ii) (A), (B), (C), and (D) of this section from calendar year 1996, adjusted for economic trends and conditions granted under authority of WAC 388-

96-719 plus the desk reviewed property costs from the cost report for calendar year 1996;

(e) For July 1, 1995, July 1, 1996, and July 1, 1997 rate setting, in computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in this chapter, including owned and leased assets, shall be used, except the capitalized cost of land upon which a facility is located and other such contiguous land which is reasonable and necessary for use in the regular course of providing resident care shall also be included. As such, subject to provisions contained in this chapter, capitalized cost of leased land, regardless of the type of lease, shall be the lessor's historical capitalized cost. Subject to provisions contained in this chapter, for land purchases before July 18, 1984 (the enactment date of the Deficit Reduction Act of 1984 (DEFRA)), capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased on or after July 18, 1984, capitalized cost of land shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable or unwilling to provide necessary information to determine net invested funds, the department may determine an amount to be used for net invested funds based upon an appraisal conducted by the department of general administration per this chapter; and

(f) A contractor shall retain that portion of ROI rate payments at settlement representing the contractor's financing allowance only to the extent reported net invested funds, upon which the financing allowance is based, are substantiated by the department.

(3) The department shall determine the variable return allowance according to the following procedure:

(a) For July 1, 1995 rate setting only, the department shall, without utilizing the MSA and Non-MSA peer groups used to calculate other Medicaid component rates, rank all facilities in numerical order from highest to lowest based upon the combined average resident day allowable costs, as adjusted by desk review and audit, for the nursing services, food, administrative, and operational cost centers taken from the 1994 cost report period. The department shall use adjusted costs taken from 1994 cost reports having at least six months of data, shall not include adjustments for economic trends and conditions granted under authority of WAC 388-96-719 and RCW 74.46.420, and shall include costs current-funded under authority of WAC 388-96-774 and 388-96-777 and commencing in the 1994 cost report year. The adjusted costs of each facility shall be calculated based upon a minimum facility occupancy of ninety percent. In the case of a new contractor, nursing services, food, administrative, and operational cost levels actually used to set the initial rate shall be used for the purpose of ranking the new contractor.

(b) The department shall compute the variable return allowance by multiplying the sum of the July 1, 1995 nursing services, food, administrative and operational rate components for each nursing facility by the appropriate percentage which shall not be less than one percent nor greater than four percent. The department shall divide the facilities ranked according to subsection (3)(a) of this section into four groups, from highest to lowest, with an equal number of facilities in each group or nearly equal as is possible. The department shall assign facilities in the highest quarter a percentage of one, in the second highest quarter a percentage of two, in the third highest quarter a percentage of three, and in the lowest quarter a percentage of four. The per patient day variable return allowance in the initial rate of a new contractor shall be the same as that in the rate of the preceding contractor, if any.

(c) The percentages so determined and assigned to each facility for July 1, 1995 rate setting, shall continue to be assigned without modification for July 1, 1996 and July 1, 1997 rate setting. Neither the break points separating the four groups nor facility ranking shall be adjusted to reflect future rate add-ons granted to contractors for any purpose under WAC 388-96-774 and 388-96-777. These principles shall apply, as well, to new contractors as defined in WAC 388-96-026 (1)(a) and (b).

(d) For an initial rate established for a nursing facility on or after July 1, 1995 under WAC 388-96-710(1), the variable return allowance shall be computed as provided in subsection (3)(b) of this section, using the identical variable return percentage breakpoints calculated for July 1, 1995 rate setting. The variable return breakpoints shall not be modified based upon the consideration of any rate adjustment, nor shall the variable return breakpoints be adjusted for economic trends and conditions. The percentage so determined and assigned for the initial rate shall continue until the facility's return on investment component rate can be rebased from cost report data of the new contractor covering at least six months from the prior calendar year.

(e) For a new contractor's nursing facility rate rebased as of July 1, 1996 determined under WAC 388-96-710, the variable return allowance shall be computed as provided in subsection (3)(b) of this section, using the identical variable return breakpoints calculated for July 1, 1995 rate setting. The variable return breakpoints shall not be modified based upon the consideration of any rate adjustment, nor shall the variable return breakpoints be adjusted for economic trends and conditions. The percentage so determined and assigned for the rebased rate at this time shall continue without modification for July 1, 1997 rate setting.

(f) For a new contractor's nursing facility rate rebased as of July 1, 1997 determined under WAC 388-96-710, the variable return allowance shall be computed as provided in subsection (3)(b) of this section, using the identical variable return breakpoints calculated for July 1, 1995 rate setting. The variable return breakpoints shall not be modified based upon consideration of any rate adjustment, nor shall the variable return breakpoints be adjusted for economic trends and conditions. The percentage so determined and assigned for the rebased rate at this time shall continue without modification until June 30, 1998.

(4) The sum of the financing allowance and the variable return allowance shall be the return on investment rate for each facility and shall be a component of the prospective rate for each facility.

(5) If a facility is leased by a contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement as defined in this chapter, and for which the annualized lease payment, plus

any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center determined according to this chapter, is more than the return on investment allowance determined according to this section, the following shall apply:

(a) The financing allowance shall be recomputed substituting the fair market value of the assets, as of January 1, 1982, determined by department of general administration appraisal less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. Said appraisal shall be final unless shown to be arbitrary and capricious.

(b) The sum of the financing allowance computed under this subsection and the variable return allowance shall be compared to the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to this chapter. The lesser of the two amounts shall be called the alternate return on investment allowances.

(c) The return on investment allowance determined in accordance with subsections (1), (2), (3), and (4) of this section or the alternate return on investment allowance, whichever is greater, shall be the return on investment allowance for the facility and shall be a component of the prospective rate of the facility.

(d) In the case of a facility leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended pursuant to a provision of the lease agreement existing on January 1, 1980, the treatment provided in subsection (5)(a) of this section shall be applied except that in the case of renewals or extensions made on or subsequent to April 1, 1985, per a provision of the lease agreement existing on January 1, 1980, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(6) The information from the two prior reporting periods used to set the two prospective return on investment rates in effect during the settlement year is subject to field audit. If the financing allowances which can be documented and calculated at audit of the prior periods are different than the prospective financing allowances previously determined by desk-reviewed, reported information, and other relevant information, the prospective financing allowances shall be adjusted to the audited level at final settlement of the year the rates were in effect, except the adjustments shall reflect a minimum bed occupancy level of eighty-five percent. Any adjustments to the financing allowances pursuant to this subsection shall be for settlement purposes only. However, the variable return allowances shall be the prospective allowances determined by desk-reviewed, reported information, and other relevant information and shall not be adjusted to reflect prior-period audit findings.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-754, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-754, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-754, filed 9/14/93, effective 10/15/93; 91-22-025 (Order 3270), § 388-96-754, filed 10/29/91, effective 11/29/91; 90-09-061 (Order 2970), § 388-96-754, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-754, filed 12/21/88. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-754, filed 4/20/87; 86-10-055 (Order 2372), § 388-96-754, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-754, filed 8/19/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-754, filed 12/4/84.]

WAC 388-96-763 Rates for recipients requiring exceptionally heavy care. (1) A nursing facility contractor certified to provide nursing services, a discharging hospital, a recipient of Medicaid benefits or her/his authorized representative may apply for an individual prospective reimbursement rate for a Medicaid recipient whose special nursing and direct care-related service needs are such that the hours of nursing services needed are at least twice the per patient day average of nursing services hours provided in the nursing facility to which the recipient is admitted as determined by the facility's Medicaid cost report for calendar year 1994.

(2) When application for an exceptional care rate is made before determining where the recipient will be placed, pre-admission qualification may be granted when the recipient's special nursing and direct care needs require hours of nursing services at least twice the statewide per patient day average derived from Medicaid cost reports for calendar year 1994. For reviews to determine continued qualification only for such recipients, conducted during the specified period of time determined under subsection (4) of this section, the department will continue to utilize the statewide average available to the department, assuming the care plan is unchanged. For subsequent reviews to determine continued qualification, the contractor's average, set forth under subsection (1) of this section, shall be substituted for the statewide average.

(3) The contractor or other applicant shall apply for exceptional care rate qualification for an exceptionally heavy care recipient in accordance with department instructions. The facility shall bill the department at the authorized exceptional care rate within three hundred sixty-five days from the exceptional care rate's effective date. Bills for services submitted after three hundred sixty-five days shall be denied as untimely.

(4) When the department grants an individual rate for an exceptionally heavy care recipient, it shall be for a specified period of time, which the department shall determine, subject to extension, revision, or termination depending on the recipient's care requirements at the end of such period. If within thirty days after a resident's admission to a nursing facility the application for such resident for an exceptional care rate is submitted to the department and includes the facility plan of care documenting the need for and delivery of the resident's nursing and direct care hours, the rate, if approved, shall be effective as of the date of admission. Applications submitted more than thirty days after admission to the facility, if approved, shall be effective as of the date of application.

(5) Extensions of exceptional care rates will not be approved without an updated care plan and resident medical status information submitted in accordance with departmental instruction prior to the scheduled date of the rate's termination. Failure to comply will result in automatic termination

as of the scheduled date and reinstatement of an exceptional care rate, if desired, will require re-application and approval. Discharge or transfer of the recipient, permanently or temporarily, shall terminate an exceptional care rate which shall be nontransferable to a different facility. Qualification upon re-admission shall require re-application. A contractor may not transfer or discharge a Medicaid recipient based upon the status of an exceptional care rate or application for such a rate.

(6) Regardless of whether statewide average nursing hours derived from the Medicaid cost reports for calendar year 1994 or facility average nursing hours reported on the Medicaid cost reports for calendar year 1994 are used for qualification, the exceptional care rate for a recipient shall be calculated by:

(a) Deriving a ratio equivalent to actual or projected nursing hours per patient day needed by the recipient in excess of the facility-specific reimbursed average nursing hours per patient day divided by the facility-specific reported average nursing hours per patient day derived from the Medicaid cost reports for calendar year 1994;

(b) Multiplying the ratio by the facility-specific nursing services rate in effect at the time of the initial request or in the case of continuation or revision, the facility's nursing services rate in effect at the time of the approval of the continuation or revision; and

(c) Adding the result of subsection (6)(b) of this section to the total facility-specific reimbursement rate; *provided*, that in no circumstance shall an exceptional care rate exceed one hundred sixty percent of the facility's Medicare reimbursement rate in place at the time the exceptional care rate takes effect.

(7) A pre-admission exceptional care rate shall be effective for thirty days. The contractor shall notify the department, in writing, as soon as the recipient is admitted to the contractor's facility. If resident placement in a Medicaid nursing facility has not occurred within thirty days after the department receives the exceptional care application the contractor shall submit, an updated plan of care in order to reinstate exceptional care qualification.

(8) Unless the department establishes otherwise, extensions require an updated plan of care to be completed and submitted every ninety days for each exceptional care recipient, including documentation supporting the need for services identified in the plan of care. The department shall base a decision to continue, revise, or terminate an exceptional care rate on review of the updated plan of care and supporting documentation, a current care need assessment, and other information available to the department.

In order to extend an exceptional care rate, the review must verify continued need for and delivery of nursing, direct and ancillary care services funded by the rate.

(9) An exceptional care rate shall not be revised during the period the exceptional care rate is in effect because the facility-specific nursing services or total rate is revised or reset; however, when an exceptional care rate is continued or revised as authorized in this section, the facility rate in place at the time of continuation or revision shall be used in the calculation process. An exceptional care rate shall be revised during the period the rate is in effect only when:

(a) An updated plan of care indicates a significant change in care needs; or

(b) Funded services are not fully delivered.

(10) No retroactive revision shall be made to an exceptional care rate, provided that:

(a) When application is made within thirty days after the recipient is admitted to the contractor's facility, an approved rate shall be effective the date of admission;

(b) When an exceptional care rate is revised due to a significant change, the revised rate will be effective on the date the department receives the updated plan of care and supporting documentation; and

(c) When care services funded by an exceptional care rate are not fully delivered, the exceptional care rate shall be reduced retroactively as of its effective date to the regular facility Medicaid rate and payment at the exceptional care rate shall cease immediately.

(11) Hours of nursing and direct care used to qualify a recipient and to calculate an exceptional rate must be verified by a home and community services division, aging and adult services, regional community nurse consultant.

(12) The department shall notify the contractor, in writing, of the disposition of its application as soon as possible and in no case longer than thirty days following receipt of a properly completed application and supporting documentation.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-763, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-763, filed 5/26/94, effective 6/26/94; 92-16-013 (Order 3424), § 388-96-763, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-763, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-763, filed 12/21/88. Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-763, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-763, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-763, filed 1/9/78.]

WAC 388-96-765 Ancillary care. Beginning July 1, 1984, costs of providing ancillary care are allowable, subject to any applicable cost center limit contained in this chapter, provided documentation establishes the costs were incurred for medical care recipients and other sources of payment to which recipients may be legally entitled, such as private insurance or Medicare, were first fully utilized.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-765, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-765, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-765, filed 5/30/84.]

WAC 388-96-769 Adjustments required due to errors or omissions. (1) Prospective rates are subject to adjustment by the department in accordance with this section and subject to WAC 388-96-122 as a result of errors or omissions by the department or by the contractor. The department will notify the contractor in writing of each adjustment and of the effective date of the adjustment, and of any amount due to the department or to the contractor as a result of the rate adjustment. Rates adjusted in accordance with this section will be effective as of the effective date of the original rate whether the adjustment is solely for comput-

ing a preliminary or final settlement or for the purpose of modifying past or future rate payments as well.

(2) If a contractor claims an error or omission based upon incorrect cost reporting, amended cost report pages shall be prepared and submitted by the contractor. Amended pages shall be accompanied by the certification required by WAC 388-96-117 and a written justification explaining why the amendment is necessary. Such amendments shall not be accepted unless the amendments meet the requirements of WAC 388-96-122. If changes made by the amendments are determined to be material by the department according to standards established by the department, such amended pages shall be subject to field audit. If a field audit or other information available to the department determines the amendments are incorrect or otherwise unacceptable, any rate adjustment based on the amendment shall be null and void and future rate payment increases, if any, scheduled as a result of such an adjustment shall be cancelled immediately. Payments made based upon the rate adjustment shall be subject to repayment as provided in subsection (3) of this section.

(3) The contractor shall pay an amount owed the department, as determined by the department on or after July 1, 1995, resulting from an error or omission or from an improper adjustment, or commence repayment in accordance with a schedule determined and agreed to in writing by the department, within sixty days after receipt of notification of the rate adjustment or rate adjustment cancellation. If a refund as determined by the department is not paid when due, the amount thereof may be deducted from current payments by the department. However, neither a timely filed request to seek administrative review under WAC 388-96-904 nor commencement of judicial review, as may be available to the contractor in law, shall delay recovery, including recoupment of the refund from current payments made by the department to the contractor for nursing facility services.

(4) If a cost report amendment is accepted for rate adjustment and was received by the department prior to the end of the period to which the rate is assigned, the department shall make any retroactive payment to which the contractor may be entitled within thirty days after the contractor is notified of the rate adjustment and shall increase future rate payments for the rate period, as appropriate.

(5) If a cost report amendment is received by the department subsequent to the rate period, notification of an adjustment or other disposition shall be made at preliminary or final settlement. Adjustments resulting from amendments received after the rate period shall be for the sole purpose of computing the preliminary or final settlement and no retroactive payment shall be made to the contractor. In accordance with WAC 388-96-229(1), any amount due a contractor as determined at preliminary or final settlement shall be paid within sixty days after the preliminary or final settlement is received by the contractor.

(6) No adjustments for any purpose will be made to a rate more than one hundred twenty days after the final audit narrative and summary for the period the rate was effective is sent to the contractor or more than one hundred twenty days after the preliminary settlement becomes the final settlement. A final settlement within this one hundred twenty-day time limit may be reopened for the limited purpose of making an adjustment to a prospective rate in accordance with this section. However, only the adjustment and related computation will be subject to review if timely contested pursuant to WAC 388-96-901 and 388-96-904. Other actions relating to a settlement reopened shall not be subject to review unless previously contested in a timely manner.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-769, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-769, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-769, filed 5/14/82; 81-22-081 (Order 1712), § 388-96-769, filed 11/4/81; 78-02-013 (Order 1264), § 388-96-769, filed 1/9/78.]

WAC 388-96-776 Add-ons to the prospective rate—Capital improvements. (1) The department shall grant an add-on to a prospective rate for any capitalized additions or replacements made as a condition for licensure or certification; *provided*, the net rate effect is ten cents per patient day or greater.

(2) The department shall grant an add-on to a prospective rate for capitalized improvements done under RCW 74.46.465; *provided*, the legislature specifically appropriates funds for capital improvements for the biennium in which the request is made and the net rate effect is ten cents per patient day or greater. Physical plant capital improvements include, but are not limited to, capitalized additions, replacements or renovations made as a result of an approved certificate of need or capitalized additions or renovations for the removal of physical plant waivers.

(3) When physical plant improvements made under subsection (1) or (2) are completed in phases, the department shall not grant a rate add-on for any addition, replacement or improvement until each phase is completed and fully utilized for which it was intended. The department shall limit rate add-on to only the actual cost of the depreciable tangible assets meeting the criteria of WAC 388-96-557 and as applicable to that specific completed and fully utilized phase.

(4) When the construction class of any portion of a newly constructed building will improve as the result of any addition, replacement or improvement occurring in a later, but not yet completed and fully utilized phase of the project, the most appropriate construction class, as applicable to that completed and fully utilized phase, will be assigned for purposes of calculating the rate add-on. The department shall not revise the rate add-on retroactively after completion of the portion of the project that provides the improved construction class. Rather, the department shall calculate a new rate add-on when the improved construction class phase is completed and fully utilized and the rate add-on will be effective in accordance with subsection (8) of this section using the date the class was improved.

(5) The department shall not add on construction fees as defined in WAC 388-96-745(6) and other capitalized allowable fees and costs as related to the completion of all phases of the project to the rate until all phases of the entire project are completed and fully utilized for the purpose it was made. At that time, the department shall add on these fees and costs to the rate, effective no earlier than the earliest date a rate add-on was established specifically for any phase of this project. If the fees and costs are incurred

in a later phase of the project, the add-on to the rate will be effective on the same date as the rate add-on for the actual cost of the tangible assets for that phase.

(6) The contractor requesting an adjustment under subjection (1) or (2) shall submit a written request to the office of rates management separate from all other requests and inquiries of the department, e.g., WAC 388-96-904 (1) and (5). A complete written request shall include the following:

(a) A copy of documentation (i.e., survey level "A" deficiency) requiring completion of the addition or replacements to maintain licensure or certification for adjustments requested under subsection (1) of this section;

(b) A copy of the new bed license, whether the number of licensed beds increases or decreases, if applicable;

(c) All documentation, e.g., copies of paid invoices showing actual final cost of assets and/or service, e.g., labor purchased as part of the capitalized addition or replacements;

(d) Certification showing the completion date of the capitalized additions or replacements and the date the assets were placed in service per WAC 388-96-559(2);

(e) A properly completed depreciation schedule for the capitalized additions or replacement as provided in this chapter;

(f) A written justification for granting the rate increase; and

(g) For capitalized additions or replacements requiring certificate of need approval, a copy of the approval and description of the project.

(7) The department's criteria used to evaluate the request may include, but is not limited to:

(a) The remaining functional life of the facility and the length of time since the facility's last significant improvement;

(b) The amount and scope of the renovation or remodel to the facility and whether the facility will be better able to serve the needs of its residents;

(c) Whether the improvement improves the quality of living conditions of the residents;

(d) Whether the improvement might eliminate life safety, building code, or construction standard waivers;

(e) Prior survey results; and

(f) A review of the copy of the approval and description of the project.

(8) The department shall not grant a rate add-on effective earlier than sixty days prior to the receipt of the initial written request by the office of rates management and not earlier than the date the physical plant improvements are completed and fully utilized. The department shall grant a rate add-on for an approved request as follows:

(a) If the physical plant improvements are completed and fully utilized during the period from the first day to the fifteenth day of the month, then the rate will be effective on the first day of that month; or

(b) If the physical plant improvements are completed and fully utilized during the period from the sixteenth day and the last day of the month, the rate will be effective on the first day of the following month.

(9) If the initial written request is incomplete, the department will notify the contractor of the documentation and information required. The contractor shall submit the requested information within fifteen days from the date the contractor receives the notice to provide the information. If the contractor fails to complete the add-on request by providing all the requested documentation and information within the fifteen days from the date of receipt of notification, the department shall deny the request for failure to complete.

(10) If, after the denial for failure to complete, the contractor submits a written request for the same project, the date of receipt for the purpose of applying subsection (8) will depend upon whether the subsequent request for the same project is complete, i.e., the department does not have to request additional documentation and information in order to make a determination. If a subsequent request for funding of the same project is:

(a) Complete, then the date of the first request may be used when applying subsection (8); or

(b) Incomplete, then the date of the subsequent request must be used when applying subsection (8) even though the physical plant improvements may be completed and fully utilized prior to that date.

(11) The department shall respond, in writing, not later than sixty days after receipt of a complete request.

(12) If the contractor does not use the funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

(13) When any physical plant improvements made under subsection (1) or (2) results in a change in licensed beds, any rate add-on granted will be subject to the provisions regarding the number of licensed beds, patient days, occupancy, etc., included in this chapter.

(14) All rate components to fund the Medicaid share of nursing facility new construction or refurbishing projects costing in excess of one million two hundred thousand dollars, or projects requiring state or federal certificate of need approval, shall be based upon a minimum facility occupancy of eight-five percent for the nursing services, food, administrative, operational and property cost centers, and the return on investment (ROI) rate component, during the initial rate period in which the adjustment is granted. These same component rates shall be based upon a minimum facility occupancy of ninety percent for all rate periods after the initial rate period.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-776, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-776, filed 5/26/94, effective 6/26/94.]

WAC 388-96-813 Suspension of payment. (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extensions. Payments will be released as soon as a properly completed report is received.

(b) Auditors or other authorized department personnel in the course of their duties are refused access to a nursing facility or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided.

(c) A refund in connection with a preliminary or final settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund and any accumulated interest owed to the department as authorized by this chapter and chapter 74.46 RCW.

(d) Payment for the final sixty days of service under a contract will be held in the absence of adequate alternate security acceptable to the department pending final settlement when the contract is terminated.

(e) Payment for services at any time during the contract period in the absence of adequate alternate security acceptable to the department, if a contractor's net Medicaid overpayment liability for one or more nursing facilities or other debt to the department, as determined by preliminary settlement, final settlement, civil fines imposed by the department, third-party liabilities or other sources, reaches or exceeds fifty thousand dollars, whether subject to good faith dispute or not, and for each subsequent increase in liability reaching or exceeding twenty-five thousand dollars. Payments will be released as soon as practicable after acceptable security is provided or refund to the department is made.

(2) No payment will be withheld until written notification of the suspension is given to the contractor, stating the reason for the withholding, except that neither a request to pursue administrative review under WAC 388-96-904 nor commencement of judicial review, as may be available to the contractor in law, shall delay suspension of payment.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-813, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-813, filed 9/16/83; Order 1262, § 388-96-813, filed 12/30/77.]

WAC 388-96-901 Disputes. (1) If a reimbursement rate issued to a contractor is believed to be incorrect because it is based on errors or omissions by the contractor or department, the contractor may request an adjustment pursuant to WAC 388-96-769. Pursuant to WAC 388-96-904(1) a contractor may within twenty-eight days request an administrative review after notification of an adjustment or refusal to adjust.

(2) For all nursing facility prospective Medicaid payment rates effective on or after July 1, 1995, and for all settlements and audits issued on or after July 1, 1995, regardless of what periods the settlements or audits may cover, if a contractor wishes to contest the way in which a department rule relating to the Medicaid payment rate system was applied to the contractor by the department, e.g., in setting a payment rate or determining a disallowance at audit, it shall pursue the administrative review process set out in WAC 388-96-904.

(3) If a contractor wishes to challenge the legal validity of a statute, rule or contract provision or wishes to bring a challenge based in whole or in part on federal law, including but not limited to issues of procedural or substantive compliance with the federal Medicaid minimum payment standard known as the Boren Amendment, found at 42 USC 1396a (a)(13)(A) and in federal regulation, as it applies to long-term care facility services, the administrative review procedure authorized in WAC 388-96-904 may not be used for these purposes. This prohibition shall apply regardless of whether the contractor wishes to obtain a decision or ruling on an issue of validity or federal compliance or wishes only to make a record for the purpose of subsequent judicial review.

(4) If a contractor wishes to challenge the legal validity of a statute, rule or contract provision relating to the Medicaid payment rate system, or wishes to bring a challenge based in whole or in part on federal law, it must bring such action de novo in a court of proper jurisdiction as may be provided by law.

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-901, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. 91-12-026 (Order 3185), § 388-96-901, filed 5/31/91, effective 7/1/91. Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-901, filed 10/13/82; Order 1262, § 388-96-901, filed 12/30/77.]

WAC 388-96-902 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-904 Administrative review—Adjudicative proceeding. (1) The provisions of this section shall apply to administrative review of all nursing facility payment rates effective on and after July 1, 1995, and to administrative review of all audits and settlements issued on or after this date, regardless of what payment period the audit or settlement may cover. Contractors seeking to appeal or take exception to an action or determination of the department relating to the contractor's payment rate, audit or settlement, or otherwise affecting the level of payment to the contractor, shall request an administrative review conference in writing within twenty-eight calendar days after receiving notice of the department's action or determination. The contractor shall be deemed to have received notice five calendar days after the date of the notification letter, unless the contractor can provide proof of later receipt. The contractor's request for administrative review shall be signed by the contractor or by a partner, officer or authorized employee of the contractor, shall state the particular issues raised and include all necessary supporting documentation or other information.

(2) After receiving a request for administrative review meeting the criteria in subsection (1) of this section, the department shall schedule an administrative review conference to be held within ninety calendar days after receiving the contractor's request. By agreement this time may be extended up to sixty additional days, but a conference shall not be scheduled or held beyond one hundred fifty calendar days after the department receives the contractor's request for administrative review. The conference may be conducted by telephone.

(3) At least fourteen calendar days prior to the scheduled date of the administrative review conference, the contractor must supply the additional documentation or information upon which the contractor intends to rely in presenting its case. In addition, the department may request at any time prior to issuing a decision any documentation or information needed to decide the issues raised and the contractor must comply with such a request within fourteen calendar days after it is received. This period may be extended up to fourteen additional calendar days for good cause shown if the contractor requests an extension in writing received by the department before expiration of the initial fourteen day period. Issues which cannot be decided

or resolved due to a contractor's failure to provide requested documentation or information within the required period shall be dismissed.

(4) The department shall, within sixty calendar days after the conclusion of the conference, render a decision in writing addressing the issues raised, unless the department is waiting for additional documentation or information requested from the contractor pursuant to subsection (3) of this section, in which case the sixty-day period shall not commence until the department's receipt of such documentation or information or until expiration of the time allowed to provide it. The decision letter shall include a notice of dismissal of all issues which cannot be decided due to missing documentation or information requested.

(5) A contractor seeking further review of a decision issued pursuant to subsection (4) of this section:

(a) Shall request, in writing, signed by one of the individuals authorized by subsection (1) of this section, within twenty-eight calendar days after receiving the department's decision letter, an adjudicative proceeding to be conducted by a presiding officer employed by the department's office of appeals; or

(b) Shall file, in the event the parties are able to stipulate to a record that can serve as the record for judicial review, a petition for judicial review pursuant to RCW 34.05.570(4).

The contractor shall be deemed to have received notice of the department's conference decision five calendar days after the date of the decision letter, unless the contractor can provide proof of later receipt.

(6) The scope of an adjudicative proceeding shall be limited to the issues specifically raised by the contractor at the administrative review conference and addressed in the department's decision letter. The contractor shall be deemed to have waived all issues which could have been raised by the contractor relating to the challenged determination or action, but which were not pursued at the conference and addressed in the department's decision letter.

(7) If the contractor wishes to have further review of any issue dismissed by the department for failure to supply needed or requested information or documentation, the issue shall be considered by the presiding officer for the purpose of upholding the department's dismissal, reinstating the issue and remanding for further agency staff action or reinstating the issue and rendering a decision on the merits.

(8) An adjudicative proceeding shall be conducted in accordance with this chapter, chapter 388-08 WAC and chapter 34.05 RCW. In the event of a conflict between the provisions of this chapter and chapter 388-08 WAC, the provisions of this chapter shall prevail. The presiding officer assigned by the department's office of appeals to conduct an adjudicative proceeding and who conducts the proceeding shall render the final agency decision.

(9) The office of appeals shall issue an order dismissing an adjudicative proceeding requested under subsection (5)(a), unless within two hundred seventy days after the office of appeals receives the application or request for an adjudicative proceeding:

(a) All issues have been resolved by a written settlement agreement between the contractor and the department signed by both and filed with the office of appeals; or

(b) An adjudicative proceeding has been held for all issues not resolved and the evidentiary record, including all rebuttal evidence and post-hearing or other briefing, is closed.

This time limit may be extended thirty additional days for good cause shown upon the motion of either party made prior to the expiration of the initial two hundred seventy day period. It shall be the responsibility of the contractor to request that hearings be scheduled and ensure that settlement agreements are signed and filed with the office of appeals in order to comply with the time limit set forth in this subsection.

(10) Any party dissatisfied with a decision or an order of dismissal of the office of appeals may file a petition for reconsideration within ten days after the decision or order of dismissal is served on such party. The petition shall state the specific grounds upon which relief is sought. The time for seeking reconsideration may be extended by the presiding officer for good cause upon motion of either party. The presiding officer shall rule on a petition for reconsideration and may seek additional argument, briefing, testimony or other evidence if deemed necessary. Filing a petition for reconsideration shall not be a requisite for seeking judicial review; however, if a petition is filed by either party, the agency decision shall not be deemed final until a ruling is made by the presiding officer.

(11) A contractor dissatisfied with a decision or an order of dismissal of the office of appeals may file a petition for judicial review pursuant to RCW 34.05.570(3).

[Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. 95-19-037 (Order 3896), § 388-96-904, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. 94-12-043 (Order 3737), § 388-96-904, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. 91-12-026 (Order 3185), § 388-96-904, filed 5/31/91, effective 7/1/91. Statutory Authority: RCW 34.05.220 (1)(a) and 74.09.120. 90-04-071 (Order 3003), § 388-96-904, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-904, filed 12/21/88. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-904, filed 12/23/87. Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-96-904, filed 2/17/84. Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-904, filed 10/13/82; Order 1262, § 388-96-904, filed 12/30/77.]

Chapter 388-97 WAC
NURSING HOMES

WAC

WAC 388-97-240 Nursing facility admission. (1) A nursing facility shall not admit any person unless an identification screen is completed as required under WAC 388-97-245, Preadmission screening.

(2) A person identified as having a serious mental illness or a developmental disability, as defined under 42 C.F.R. §483.102, as now or hereafter amended, shall be assessed under WAC 388-97-245, Preadmission screening, before the person's admission to a nursing facility.

(3) A Medicaid applicant or recipient shall not be admitted to a nursing facility unless the department has assessed and determined the person is medically eligible for

nursing facility care as defined under WAC 388-97-235, Medical eligibility for nursing facility care.

(4) The department shall authorize nursing facility services and payment for Medicaid-eligible persons effective the date:

(a) Of the request for a department long-term care assessment; or

(b) Nursing facility care actually begins, whichever is later.

(5) The department shall not reimburse a nursing facility for any care rendered before the date the nursing facility makes a request to the department for an assessment.

(6) A nursing facility shall not collect payment from a Medicaid-eligible person, or that person's family or representative for any services provided prior to the date the nursing facility makes a request to the department for an assessment.

[Statutory Authority: 1995 c 18, RCW 18.51.070, 74.42.620 and 74.42.056. 95-24-019 (Order 3922), § 388-97-240, filed 11/22/95, effective 12/23/95. Statutory Authority: RCW 18.51.070 and 74.42.620. 94-19-041 (Order 3782), § 388-97-240, filed 9/15/94, effective 10/16/94.]

Chapter 388-165 WAC
CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM— SOCIAL SERVICES (CEAP-SS)

WAC

WAC 388-165-005 Purpose. The consolidated emergency assistance program—social services (CEAP-SS) is a federally-matched program providing time-limited assistance and services to meet the emergent needs of children and their families.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-005, filed 5/10/95, effective 6/10/95.]

WAC 388-165-010 General provisions. The department shall authorize CEAP-SS for the following person who meets the eligibility conditions established in this chapter:

(1) A child who is eligible for the department's child welfare services, child protective services, or family reconciliation services as specified under chapter 388-70 WAC and WAC 388-15-130;

(2) A youth who is committed to the department's juvenile rehabilitation administration as specified in chapter 275-35 WAC; and

(3) A minor child or a parent with a minor child who is:

(a) Admitted to a domestic violence or sexual assault shelter; or

(b) At risk of such an admission as specified in chapter 248-554 WAC.

(4) A minor child or a parent with a minor child not meeting the eligibility conditions established in this chapter may be eligible for emergency assistance (CEAP) as specified in chapter 388-225 WAC.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-010, filed 5/10/95, effective 6/10/95.]

WAC 388-165-020 Application procedure. The department shall accept and promptly act upon a CEAP-SS application made by:

(1) A parent or legal guardian on behalf of a child;

(2) A public agency staff on behalf of a child; or

(3) A department staff on behalf of a child.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-020, filed 5/10/95, effective 6/10/95.]

WAC 388-165-030 Application form. Department staff shall ensure the CEAP-SS application is on a form approved by the department and includes:

(1) Paper application form; or

(2) Electronic application form, such as provided by division of children and family services (DCFS).

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-030, filed 5/10/95, effective 6/10/95.]

WAC 388-165-040 Assistance unit. (1) The department shall authorize the following person as the assistance unit:

(a) A single child; or

(b) A child or a parent with a child who is:

(i) Admitted to a domestic violence or sexual assault shelter; or

(ii) At risk of such shelter admission.

(2) A child receiving SSI, AFDC, or other entitlement benefits shall not be excluded from the assistance unit.

(3) For services to children, youth and families, the receipt of CEAP-SS by one child of a sibling group in a twelve-month period shall not exclude any other child of the sibling group from receiving CEAP-SS independently in the same twelve-month period.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-040, filed 5/10/95, effective 6/10/95.]

WAC 388-165-050 Eligibility conditions—Emergent need. To be eligible for CEAP-SS, an applicant shall meet the following conditions:

(1) A child removed from the child's own home into publicly funded care or supervision, or a child at risk of such removal as determined by the department worker or worker's designee; or

(2) A child or a parent with a child who is:

(a) Admitted to a domestic violence or sexual assault shelter; or

(b) At risk of such admission.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-050, filed 5/10/95, effective 6/10/95.]

WAC 388-165-060 Eligibility conditions—Income and resource eligibility. An applicant shall earnestly ensure an annual income of less than eighty-eight thousand six hundred eight dollars.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-060, filed 5/10/95, effective 6/10/95.]

WAC 388-165-070 Eligibility conditions—Living with a relative of a specified degree. Before approving CEAP-SS assistance, the department shall ensure the child is living or has lived in the past six months with a:

(1) Parent as specified under WAC 388-215-1060; or

(2) Relative as specified under WAC 388-215-1080.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-070, filed 5/10/95, effective 6/10/95.]

WAC 388-165-080 Eligibility conditions—Job refusal. The applicant shall not have refused a bona fide job offer of employment or training for employment, without good cause, within thirty days before application.

(1) The department shall determine if the applicant's conditions which constitute good cause for refusal of employment are the same conditions as described in WAC 388-225-0090(2).

(2) Additional conditions may constitute "good cause" based on the discretion of the department staff.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-080, filed 5/10/95, effective 6/10/95.]

WAC 388-165-090 Eligibility conditions—Residency and alien status. (1) To be eligible for CEAP-SS:

(a) An applicant shall be a resident of Washington state. "Resident" means a person:

(i) Voluntarily living in the state with the intention of making and maintaining a home in the state; and

(ii) Not residing in the state for a temporary purpose.

(b) If not a resident of Washington state, an applicant shall be:

(i) Detained in Washington state for reasons beyond the household's control as a result of events which could not have been reasonably anticipated; or

(ii) A migrant. "Migrant" means a person who moves from one region to another to perform work or a duty.

(2) An alien granted lawful temporary resident status under sections 210A and 245A of the Immigration and Nationality Act shall be ineligible. Disqualification due to this provision applies for a period of five years from the date the temporary resident status was granted.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-090, filed 5/10/95, effective 6/10/95.]

WAC 388-165-100 Payment limitations. (1) The department shall authorize CEAP-SS to an eligible applicant for a period of twelve months, not to exceed one authorization per eligible applicant in a twelve-month period. The department shall ensure the eligible applicant's CEAP-SS application constitutes authorization for all services and assistance as determined appropriate and necessary for the entire twelve-month period.

(2) The department shall ensure CEAP-SS services and assistance provided under this provision do not grant direct cash assistance to the child or family. Vendors or the department staff or the designee shall provide services and assistance. Services and assistance include, but are not limited, to the following subject to department determination and approval:

(a) Substitute care, including placement in juvenile facilities;

(b) Family preservation or family reconciliation services;

(c) Home-based services;

(d) Medical or mental health services; and

(e) Support services to normalize individual or family functioning.

[Statutory Authority: RCW 74.08.090, 74.04.660, 74.04,050 and 45 CFR 233.120 Title IV-A Section 406(e). 95-11-048 (Order 3850), § 388-165-100, filed 5/10/95, effective 6/10/95.]

Chapter 388-201 WAC
SUCCESS THROUGH EMPLOYMENT PROGRAM (STEP)

WAC

WAC 388-201-100 General provisions. (1) The success through employment program (STEP) is enacted under RCW 74.12.036, 420, 425, and 901 and section 1115 of the Social Security Act (42 U.S.C. 1315).

(2) The STEP program is a ten-year demonstration project designed to encourage family unity and to increase labor market participation of families receiving AFDC.

(3) Except as provided in this chapter, recipients in the STEP treatment and control groups shall be subject to and covered by the Washington administrative code applicable to the aid to families with dependent children (AFDC) program.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-100, filed 11/22/95, effective 1/1/96.]

WAC 388-201-200 Definitions. (1) "Child-only group" means all AFDC cases where there are no adults in the assistance unit.

(2) "Length-of-stay grant reduction" means a grant reduction resulting from the assistance unit's length of stay on AFDC.

(3) "STEP control group" means a valid random sample of all AFDC cases with adults in the assistance unit.

(4) "STEP earned income adjustment" means grant adjustments which allow members of the assistance unit to offset length-of-stay grant reductions with their earned income.

(5) "STEP treatment group" means all remaining AFDC cases, not assigned to child-only or STEP control groups.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-200, filed 11/22/95, effective 1/1/96.]

WAC 388-201-300 Participation. (1) Effective January 1, 1996, the department shall assign all AFDC recipients with an adult in the assistance unit at random to either the STEP treatment group or the STEP control group.

(a) Child-only assistance units shall be exempt from participation in STEP.

(b) Recipients in the STEP control group shall not be subject to any of the STEP provisions, as delineated in WAC 388-201-400 through 388-201-480.

(c) Recipients in the STEP treatment group shall be subject to the STEP provisions delineated in WAC 388-201-400 through 388-201-480.

(2) For the purposes of assigning the assistance unit to a child-only, STEP treatment or STEP control group, the department shall consider adults who are required to be in the assistance unit but are excluded due solely to JOBS or IV-D sanction as adult members of the assistance unit.

(3) When an adult enters or leaves an AFDC assistance unit, the department shall redetermine the assistance unit's child-only, STEP treatment or STEP control status.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-300, filed 11/22/95, effective 1/1/96.]

WAC 388-201-400 Treatment group—Elimination of the one hundred hour rule. Effective January 1, 1996, the department shall extend the definition of unemployed parent to include recipients in the STEP treatment group who are employed and working one hundred hours or more a month.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-400, filed 11/22/95, effective 1/1/96.]

WAC 388-201-410 Treatment group—Assessment of past AFDC receipt. Beginning January 1, 1996, the department shall determine the history of AFDC receipt for all assistance units in the STEP treatment group on a monthly basis. For the purposes of this section:

(1) The department shall not count any months of AFDC receipt prior to January 1, 1996;

(2) If there is more than one parent in the assistance unit, the department shall calculate the assistance unit's months on AFDC based on the parent with the longer history of AFDC receipt;

(3) The department shall only include months of AFDC receipt in which the assistance unit:

(a) Received an AFDC grant payment; or

(b) Did not receive a grant payment because the amount of the monthly grant following the budgeting of income or grant reductions was less than ten dollars per month, as specified in WAC 388-245-1400(1).

(4) Months of AFDC receipt shall not include any month in which the assistance unit's grant was suspended because the department has reason to believe ineligibility caused by income or other change of circumstance in the report month would be for one month only, as specified in WAC 388-245-1400(3).

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-410, filed 11/22/95, effective 1/1/96.]

WAC 388-201-420 Treatment group—Initial length-of-stay grant reductions. (1) The department shall apply the following provisions to any assistance unit in the STEP treatment group in which an adult has received AFDC benefits for forty-eight months of the last sixty months:

(a) The family shall be subject to an initial length-of-stay grant reduction;

(b) For each month the family is not exempt, as provided in WAC 388-201-450, the department shall impose the initial length-of-stay grant reduction, which is an amount equal to ten percent of the assistance unit's payment standard; and

(c) The department shall not apply a JOBS sanction to a family that is subject to length-of-stay grant reductions.

(2) For the purposes of determining the effect of length-of-stay grant reductions on the assistance unit's AFDC eligibility:

(a) The department shall treat length-of-stay grant reductions in the same manner as mandatory grant deductions; and

(b) As specified in WAC 388-270-1400(7), the department shall suspend an individual's grant when the monthly length-of-stay grant reduction is equal to or more than the grant which would have been paid had no grant reduction occurred.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-420, filed 11/22/95, effective 1/1/96.]

WAC 388-201-430 Treatment group—Additional length-of-stay grant reductions. Except as provided in WAC 388-201-450, once a family is subject to length-of-stay grant reductions:

(1) The department shall reduce monthly AFDC benefits by an additional length-of-stay grant reduction for each additional twelve months the assistance unit receives AFDC.

(2) Each additional length-of-stay grant reduction shall be equal to ten percent of the assistance unit's payment standard.

(3) The department shall only count months in which a length-of-stay grant reduction has been imposed toward the additional twelve months of AFDC receipt.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-430, filed 11/22/95, effective 1/1/96.]

WAC 388-201-440 Treatment group—Redetermination of length-of-stay grant reductions. When a family that is subject to length-of-stay grant reductions terminates from AFDC for one calendar month or more and subsequently reapplies for AFDC, the department shall:

(1) Rescind any previously existing length-of-stay grant reductions; and

(2) Determine whether the re-applicant is subject to an initial length-of-stay grant reduction, based on the re-applicant's AFDC receipt during the last sixty months.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-440, filed 11/22/95, effective 1/1/96.]

WAC 388-201-450 Treatment group—Families exempt from length-of-stay grant reductions. The department shall not impose length-of-stay grant reductions during any month in which an adult assistance unit member is:

(1) Unable to participate in JOBS due to incapacity, as specified in WAC 388-47-100 (2)(c);

(2) Needed in the home to care for an incapacitated household member;

(3) Needed in the home to care for a child who is two years of age or younger;

(4) Participating satisfactorily in JOBS and no present full-time, part-time, or unpaid work experience job is offered; or

(5) Participating in an unpaid work experience program.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-450, filed 11/22/95, effective 1/1/96.]

WAC 388-201-460 Treatment group—STEP earned income adjustments. An assistance unit subject to a length-of-stay grant reduction shall be entitled to a STEP earned income adjustment, which is:

(1) Added to the assistance unit's grant to offset the length-of-stay grant reduction with the earned income of assistance unit members; and

(2) Equal to the amount of the length-of-stay grant reduction or the net nonexempt earned income, whichever is less.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-460, filed 11/22/95, effective 1/1/96.]

WAC 388-201-470 Treatment group—Advance notice of impending length-of-stay grant reductions. Prior to the imposition of any length-of-stay grant reductions, the department shall give notice of potential length-of-stay grant reductions to recipient households in the STEP treatment group which have received AFDC for thirty-six of the last sixty months, as follows:

(a) Send advance written notice of impending length-of-stay grant reductions; and

(b) Discuss potential length-of-stay grant reductions with the recipient during a face-to-face interview which is conducted during the recipient's periodic eligibility review.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-470, filed 11/22/95, effective 1/1/96.]

WAC 388-201-480 Treatment group—Reducing the impact of cumulative length-of-stay grant reductions. As an assistance unit approaches imposition of a length-of-stay grant reduction of thirty percent or more, the department shall take steps to reduce the impact of the reduced grant on the children in the assistance unit, as follows:

(1) Offer the services of a social worker to discuss the grant reduction or for referrals to emergency food, housing, utility, or clothing resources;

(2) Remind recipients of their option to request a fair hearing to contest imposition of the length-of-stay grant reduction;

(3) Provide a needy nonparental caretaker relative with the option to remove oneself from the assistance unit;

(4) Assess whether a protective payee is required in order to meet the needs of the child; and

(5) Review the case to determine whether the department needs to take further action to avoid harm to the children in the household.

[Statutory Authority: RCW 74.12.036, 74.12.420, 74.12.425, 74.12.901 and Social Security Act Section 1115. 95-24-014 (Order 3925), § 388-201-480, filed 11/22/95, effective 1/1/96.]

Chapter 388-215 WAC

AID TO FAMILIES WITH DEPENDENT CHILDREN—CATEGORICAL ELIGIBILITY

WAC

WAC 388-215-1000 Summary of eligibility conditions. (1) The department shall grant AFDC on behalf of a child who:

(a) Meets the age requirements under WAC 388-215-1025; and

(b) Is living in the home of a relative of specified degree including a parent or another relative as defined under WAC 388-215-1050 through 388-215-1080. For temporary absences, see WAC 388-215-1100 through 388-215-1110; and

(c) Is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States (see WAC 388-215-1200); and

(d) Is a resident of the state of Washington, or resides with a parent or other relative who is a resident of the state of Washington (see WAC 388-215-1225); and

(e) Is in financial need (see chapters 388-216 through 388-219 WAC); and

(f) Is deprived of parental support or care because of the death (see WAC 388-215-1300), continued absence (see WAC 388-215-1320 through 388-215-1335), incapacity (see WAC 388-215-1340 through 388-215-1360), or unemployment (see WAC 388-215-1370 through 388-215-1385) of a parent. A parent is a person meeting the criteria in WAC 388-215-1060.

(2) Each client of AFDC shall:

(a) Assign to the division of child support any rights to support in his or her own behalf or in behalf of the other assistance unit members as required under WAC 388-215-1400; and

(b) Cooperate with the division of child support as required under WAC 388-215-1400 through 388-215-1490.

(3) The department shall require each applicant for, or recipient of assistance to furnish a Social Security number as specified in WAC 388-215-1500.

(4) The department shall require adult AFDC recipients or payees to cooperate in a review of eligibility as part of a quality control review as specified in WAC 388-215-1510.

(5) All AFDC applicants and recipients shall be subject to job opportunities and basic skills program (JOBS) participation requirements as specified under WAC 388-215-1520.

(6) All AFDC clients are subject to the rules regarding participation in strikes as specified under WAC 388-215-1540.

(7) Certain AFDC recipients shall return a completed monthly report to the department as required under WAC 388-215-1560.

(8) The department shall establish assistance units of children and caretaker relatives eligible for AFDC as specified under WAC 388-215-1600 through 388-215-1620.

(9) The department shall determine eligibility for a minor child applying for oneself as required under WAC 388-215-1650.

[Statutory Authority: RCW 74.04.015, 74.04.055, 74.04.057 and 45 CFR 233.10 (a)(1)(ii)(B). 95-14-048 (Order 3860), § 388-215-1000, filed 6/28/95, effective 7/29/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-215-1000, filed 5/3/94, effective 6/3/94.]

WAC 388-215-1130 Living in the home of a relative of specified degree—Notification to parent of AFDC authorization. When AFDC has been authorized on behalf of a dependent child who is living with a nonparental relative of specified degree, the department shall make reasonable efforts to notify the parent with whom the child most recently resided that an application for AFDC on behalf of the child has been approved unless good cause exists not to do so based on a substantiated claim that the parent has abused or neglected the child.

(1) The department shall notify the parent as soon as reasonably possible but no later than seven calendar days after the date of AFDC approval.

(2) The notification shall advise the parent of:

(a) The provisions of the family reconciliation act under chapter 13.34A RCW; and

(b) The right of the parent to be notified of the address and location of the child as provided under WAC 388-215-1140.

[Statutory Authority: RCW 74.08.090 and 1995 c 401. 95-19-002 (Order 3889), § 388-215-1130, filed 9/6/95, effective 10/7/95.]

WAC 388-215-1140 Living in the home of a relative of specified degree—Request for address disclosure by child's parent. When AFDC has been approved for a child who is living with a nonparental caretaker relative, the address and location of the child may be given to the parent with whom the child most recently resided if the parent has legal custody of the child or a court has granted the parent visitation rights or residential time with the child.

(1) The department shall not release the address if:

(a) The department has determined, under WAC 388-215-1410, that the nonparental caretaker relative has good cause for refusing to cooperate with the department's child support agency in regard to enforcing the address requesting parent's child support obligation;

(b) A court order exists which restricts or limits the address requesting parent's right to contact or visit the child or the nonparental caretaker relative by imposing conditions to protect the caretaker relative or the child from harm;

(c) There is a current investigation or pending case involving abuse or neglect of any child by the address requesting parent under chapter 13.34 RCW; or

(d) There is a substantiated claim that the address requesting parent has abused or neglected any child.

(2) The department shall apply the following additional conditions with regard to the disclosure of a child's address and location under this section:

(a) The address requesting parent must comply with the requirements of WAC 388-215-1150 when submitting a request for disclosure;

(b) The department shall notify the child's caretaker relative of the request for disclosure and provide the relative an opportunity to demonstrate why the disclosure request should be denied following the requirements in WAC 388-215-1160; and

(c) The department shall respond to the address disclosure request following the requirements in WAC 388-215-1170.

[Statutory Authority: RCW 74.08.090 and 1995 c 401. 95-19-002 (Order 3889), § 388-215-1140, filed 9/6/95, effective 10/7/95.]

WAC 388-215-1150 Living in the home of a relative of specified degree—Requirements for submitting a request for disclosure of a child's address. A parent requesting disclosure of a child's address and location under WAC 388-215-1140 shall submit the request in writing and in person, with satisfactory evidence of identity, at the department's community services office which is currently maintaining the child's case record.

(1) If the request is made by the parent's attorney, the department shall waive the provisions regarding submission in person with satisfactory evidence of identity;

(2) If the parent resides outside the state of Washington, the department shall waive the provision requiring submission in person if the parent:

(a) Submits a notarized request for disclosure; and

(b) Complies with the requirements of subsection (3) of this section.

(3) If the request for disclosure is based upon a court order which grants the parent legal custody of the child or visitation rights or residential time with the child, the parent shall include the following with a request for disclosure of an address:

(a) A copy of the court order; and

(b) A sworn statement that the order has not been modified.

[Statutory Authority: RCW 74.08.090 and 1995 c 401. 95-19-002 (Order 3889), § 388-215-1150, filed 9/6/95, effective 10/7/95.]

WAC 388-215-1160 Living in the home of a relative of specified degree—Notifying the caretaker relative of a request for disclosure of a child's address. Prior to disclosing the address and location of a child to the child's parent under WAC 388-215-1140, the department shall mail a notice to the last known address of the nonparental caretaker relative advising the relative that:

(1) A request for disclosure has been made by the child's parent; and

(2) The office will disclose the address to the parent after thirty days from the date of the notice, unless the caretaker relative:

(a) Provides proof of a pending court case involving abuse or neglect of a child by the parent requesting disclosure;

(b) Provides proof of a current investigation of allegations of abuse or neglect of a child by the parent requesting disclosure;

(c) Provides a copy of a court order which enjoins disclosure of the address or restricts the address requesting party's right to contact or visit the caretaker relative or the child by imposing conditions to protect the nonparental relative or the child from harm, including, but not limited to, temporary orders for protection under chapter 26.50 RCW; or

(d) Requests a fair hearing under chapter 388-08 WAC which ultimately results in a decision that disclosure must be denied because of the existence of one or more of the conditions listed in WAC 388-215-1140(1).

[Statutory Authority: RCW 74.08.090 and 1995 c 401. 95-19-002 (Order 3889), § 388-215-1160, filed 9/6/95, effective 10/7/95.]

WAC 388-215-1170 Living in the home of a relative of specified degree—Responding to a request for disclosure of a child's address. The department shall respond to a parent's request for disclosure of a child's address made under WAC 388-215-1170 within thirty-five days of receiving the request. The response will notify the parent:

(1) Of the child's address and location if such information may be disclosed under the requirements of WAC 388-215-1140;

(2) That the child's address and location may not be disclosed under the requirements of WAC 388-215-1140, including the reasons for denying the parent's request; or

(3) That a decision on address disclosure has not been made because:

(a) The nonparental caretaker relative has requested a fair hearing and a final hearing decision has not been entered; or

(b) The nonparental caretaker relative is claiming good cause for refusing to cooperate with the department's child support agency with regard to enforcing the address requesting parent's child support obligation and the department has not made a final determination on the relative's claim.

(4) When a decision on address disclosure has been delayed because of a pending fair hearing decision or good cause claim, the department shall notify the parent of the decision on address disclosure within ten calendar days of the date of the fair hearing decision or good cause claim determination.

[Statutory Authority: RCW 74.08.090 and 1995 c 401. 95-19-002 (Order 3889), § 388-215-1170, filed 9/6/95, effective 10/7/95.]

WAC 388-215-1510 Cooperation with quality control. (1) As a condition of eligibility, the department shall require adult AFDC recipients or payees to cooperate in the review of eligibility as part of a quality control review.

(2) The department shall determine ineligibility for the assistance unit when a recipient or payee fails to cooperate with the quality control review process until the earlier of the following:

(a) Quality control requirements are met; or

(b) One hundred twenty days from the end of the annual quality control review period.

(3) The department shall require an applicant to provide verification of all eligibility requirements if the applicant:

(a) Was terminated from assistance for refusal to cooperate in a quality control review; and

(b) Reapplies after one hundred twenty days from the end of the annual quality control review period.

[Statutory Authority: RCW 74.04.015, 74.04.055, 74.04.057 and 45 CFR 233.10 (a)(1)(ii)(B). 95-14-048 (Order 3860), § 388-215-1510, filed 6/28/95, effective 7/29/95.]

Chapter 388-216 WAC
RESOURCE ELIGIBILITY

WAC

WAC 388-216-2150 Resources—Jointly owned resources. When a client and another person jointly own a resource, the department shall determine the client's ownership interest as described below. The department shall use any portion of a resource which is owned by and available to a client to determine eligibility.

(1) When a client has less than full ownership or full title to real or personal property, the department shall use the

client's share of the equity value of the resource to determine eligibility.

(2) A client has less than full title to real or personal property when the title is shared with some person other than a spouse, contract vendor, mortgage, or lien holder.

(3) The department shall determine whether a client owns part or all of any cash funds which are held by the client or held jointly by the client and any other person.

(a) Since the entire amount of the cash fund is at the client's disposal, the department shall presume a client owns all funds in:

(i) A joint account;

(ii) An account held by the client on behalf of another person; or

(iii) Funds held by the client in the behalf of another person.

(b) The client shall have the opportunity to rebut the presumption of full ownership when the client can show that all or a portion of the cash fund is:

(i) Derived from funds belonging exclusively to the other holder; and

(ii) Held and/or utilized solely for the benefit of that holder.

(c) The department shall not consider any cash fund as actually owned by or available to the client if the client can verify that the funds belong to and are held for the use of another person.

(4) The department shall exclude a bank account jointly owned by an AFDC recipient and an SSI recipient (i.e., both names are on the account) if the funds in the account are counted for SSI purposes and the SSI recipient cannot rebut presumption of the availability of the funds.

[Statutory Authority: RCW 74.08.090, P.L. 103-286 and Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act. 95-14-049 (Order 3862), § 388-216-2150, filed 6/28/95, effective 7/29/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-216-2150, filed 5/3/94, effective 6/3/94.]

WAC 388-216-2350 Resources—Availability of alien sponsor's resources. (1) The department shall apply the rules of this section to a sponsored alien who is applying for AFDC or GA and to the sponsor of that alien, unless the alien:

(a) Meets the definition of an asylee, Amerasian, or refugee in WAC 388-55-010;

(b) Is a Cuban or Haitian entrant, as defined in section 501(3) of the Refugee Education Assistance Act of 1980; or

(c) Is the dependent child of the sponsor or sponsor's spouse.

(2) A sponsor is defined as any person or public or private organization executing an affidavit or affidavits of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

(3) Sponsorship shall affect the eligibility of an alien for a period of three years from the date of entry for permanent residence into the United States. When the sponsor of an alien is:

(a) A public or private agency or organization, the sponsored alien shall be ineligible for assistance throughout the sponsorship period, unless the agency or organization is either no longer in existence or has become unable to meet the alien's needs; or

(b) A private individual, the department shall deem the resources of the sponsor (and the sponsor's spouse if living with the sponsor) to be the resources of the sponsored alien throughout the sponsorship period.

(4) The alien who is sponsored by an individual shall:

(a) Provide the department with any information and documentation necessary to determine the resources of the sponsor that can be deemed available to the alien; and

(b) Obtain any cooperation necessary from the sponsor.

(5) The department shall calculate the monthly resources deemed available to the sponsored alien, as follows:

(a) Use the total amount of the resources of the sponsor, determined as if the sponsor was applying for AFDC in the alien's state of residence; minus

(b) One thousand five hundred dollars.

(6) In any case where a person is the sponsor of two or more aliens who are subject to the provisions in this section, the deemable resources of the sponsor shall be divided equally among the aliens.

(7) Resources which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the resources are actually available.

(8) Any sponsor of an alien and the alien shall be jointly and individually liable for any overpayment of assistance made to the alien during the three years after the alien's entry for permanent residence into the United States due to the sponsor's failure to provide correct information, except where such sponsors were without fault or where good cause existed.

(a) When the department finds a sponsor has good cause or is without fault for not providing information to the agency, the sponsor shall not be held liable for the overpayment and recovery will not be made from the sponsor.

(b) Good cause and no fault shall be defined as any circumstance beyond the control of the sponsor.

[Statutory Authority: RCW 74.04.050 and 74.08.090. 95-19-006 (Order 3891), § 388-216-2350, filed 9/6/95, effective 10/7/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-216-2350, filed 5/3/94, effective 6/3/94.]

WAC 388-216-2450 Resources—Exempt or disregarded income which is also exempt as a resource. The department shall exempt or disregard as income all the funds listed in this section. The department shall also consider these funds as an exempt resource:

(1) The resources of a supplemental security income (SSI) recipient. The department shall not consider nonrecurring lump sum SSI retroactive payments made to an AFDC client as income or as a resource in the month paid nor in the next following month;

(2) The monthly child support incentive payment from the division of child support (DCS);

(3) AFDC benefits resulting from a court order modifying a department policy;

(4) Title IV-E, state and/or local foster care maintenance payments; and

(5) Adoption support payments if the adopted child is excluded from the assistance unit;

(6) Bona fide loans as specified in WAC 388-216-6230 and 388-216-7100. The department shall consider loans bona fide when the loan is a debt the borrower has an obligation to repay;

(7) Educational assistance, in the form of grants, loans, or work study, issued to a student from the following sources:

(a) Title IV-A of the Higher Education Amendments; or

(b) Bureau of Indian Affairs student assistance programs;

(8) Grants or loans made or insured under any programs administered by the department of education to an undergraduate student for educational purposes;

(9) Educational assistance in the form of grants, loans, or work study, issued under the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 100-391), for attendance costs as identified by the institution. For a student attending school:

(a) At least half-time, attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses; or

(b) Less than half-time, attendance costs include tuition, fees, and costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study;

(10) Educational assistance in the form of grants, work study, scholarships, or fellowships, from sources other than those identified in subsections (7), (8), and (9) of this section for attendance costs as identified by the institution. Attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses;

(11) Any remaining educational assistance, in the form of grants, work study, scholarships, or fellowships, not disregarded in subsections (7), (8), (9), or (10) of this section, as allowed under WAC 388-218-1540;

(12) The earned income disregards in WAC 388-218-1430 through 388-218-1480 for AFDC and WAC 388-219-1500 for GA-U to any work study earnings received and not disregarded in subsections (7), (8), (9), (10), and (11) of this section;

(13) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, section 216);

(14) The food coupon allotment under Food Stamp Act of 1977;

(15) Compensation to volunteers under the Domestic Volunteer Act of 1973 (P.L. 93-113, Titles I, II, and III);

(16) Benefits under Women, Infants and Children program (WIC);

(17) Food service program for children under the National School Lunch Act of 1966 (P.L. 92-433 and 93-150);

(18) Energy assistance payments;

(19) Indian trust funds or lands held in trust (including interest and investment income accrued while such funds are held in trust) by the Secretary of the Interior for an Indian Tribe, including but not limited to funds issued under the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420);

(20) Per capita judgment funds under P.L. 97-408 to members of the:

(a) Blackfeet Tribe of the Blackfeet Indian Community, Montana;

(b) Gros Ventre Tribe of the Fort Belknap Reservation, Montana; and

(c) Assiniboine Tribe of the Fort Belknap Indian Community;

(21) Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134, as amended by P.L. 103-66, 94-114, 97-458, or 98-64. In addition:

(a) Real or personal property purchased directly with funds from the per capita payments, up to the amount of the funds from the per capita payment, are referred to as initial investments. These initial investments are exempt;

(b) Income derived either from the per capita payment or the initial investments shall be treated as newly acquired income;

(c) Appreciation in value of the initial investment shall be treated as a nonexempt resource at the time of eligibility review, unless the initial investment is a type of resource which is listed as exempt under WAC 388-216-2500 or 388-216-2650;

(d) The disregard does not apply to per capita payments or initial investments from per capita payments which are transferred or inherited;

(e) The department shall not consider up to two thousand dollars per year of income received by individual Indians, derived from leases or other uses of individually owned trust or restricted lands;

(22) Two thousand dollars per person per calendar year received under the Alaska Native Claims Settlement Act (P.L. 92-203 and 100-241);

(23) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

(24) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(25) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall also disregard resources derived from restitution payments;

(26) A previous underpayment of assistance under WAC 388-260-1550 in the month paid nor in the next following month;

(27) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989 (P.L. 101-41), made to a Puyallup Tribe member upon reaching twenty-one years of age. In addition:

(a) Real or personal property purchased directly with funds from the annuity fund payment, up to the amount of the funds from the annuity fund payment, are referred to as initial investments. These initial investments are exempt;

(b) Income derived either from the annuity fund payment or the initial investments shall be treated as newly acquired income;

(c) Appreciation in value of the initial investment shall be treated as a nonexempt resource at the time of eligibility review, unless the initial investment is a type of resource which is listed as exempt under WAC 388-216-2500 or 388-216-2650;

(d) Proceeds from the transfer of the initial investments are treated as a transfer of exempt property, as specified in WAC 388-217-3350;

(28) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member;

(29) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims (P.L. 101-201). The effective date of the disregard is retroactive to January 1, 1989;

(30) Payments made under the Disaster Relief Act of 1974 (P.L. 93-288), as amended by disaster Relief and Emergency Assistance amendments of 1988 (P.L. 100-707). This applies to assistance issued by federal, state, or local governments or by a disaster assistance organization;

(31) Payments from the Radiation Exposure Compensation Act (P.L. 101-426) made to an injured person, surviving spouse, children, grandchildren, or grandparents;

(32) Payments made to victims of nazi persecution under Public Law 103-286. The effective date of the disregard is retroactive to August 1, 1994;

(33) Payments made from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act trust fund, pursuant to P.L. 93-134. Funds paid, interest or investment income earned on such funds, and any payment authorized by the tribe or the Secretary of the Interior are not counted as a resource; and

(34) Income specifically excluded by any other federal statute from consideration as income and a resource.

[Statutory Authority: RCW 74.08.090, P.L. 103-286 and Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act. 95-14-049 (Order 3862), § 388-216-2450, filed 6/28/95, effective 7/29/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-216-2450, filed 5/3/94, effective 6/3/94.]

WAC 388-216-2650 Resources—Exempt within a ceiling value. (1) The department shall exempt the equity value of the resources listed below up to the specified ceiling value. Consider any excess value as a nonexempt resource and apply to the resource limit of one thousand dollars:

(a) Term or burial insurance, up to a ceiling value of one thousand five hundred dollars per household member;

(b) One vehicle up to a ceiling value of one thousand five hundred dollars per household;

(c) When a vehicle is jointly owned by an AFDC recipient and an SSI recipient, the equity value of the vehicle is prorated between the owners:

(i) The portion of equity value owned by the SSI recipient is not counted for AFDC;

(ii) Do not count the portion of equity value owned by the AFDC client, up to the ceiling value of one thousand five hundred dollars;

(iii) Consider any portion of the equity value owned by the AFDC client in excess of the ceiling value as a nonexempt resource. Per provisions in WAC 388-216-2000 (3)(b) consider nonexempt resources up to the resource limit of one thousand dollars.

(2) The department shall phase in changes to the ceiling values at the first opportunity, when the department first:

(a) Takes a case action;

(b) Determines eligibility; or

(c) Redetermines eligibility.

[Statutory Authority: RCW 74.08.090, P.L. 103-286 and Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act. 95-14-049 (Order 3862), § 388-216-2650, filed 6/28/95, effective 7/29/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-216-2650, filed 5/3/94, effective 6/3/94.]

WAC 388-216-2800 Resources—Value. "Equity value" means fair market value minus encumbrances (legal debts).

(1) The department shall determine the value of all nonexempt resources according to the resource's equity value. When a vehicle is jointly owned by an AFDC recipient and an SSI recipient, the equity value of the vehicle is prorated between the owners:

(a) The portion of equity value owned by the SSI recipient is not counted for AFDC;

(b) Do not count the portion of equity value owned by the AFDC client, up to the ceiling value of one thousand five hundred dollars, for the first vehicle. Do not apply this rule to additional vehicles;

(c) Consider any portion of the equity value owned by the AFDC client in excess of the ceiling value as a nonexempt resource. Per provisions in WAC 388-216-2000 (3)(b) consider nonexempt resources up to the resource limit of one thousand dollars.

(2) The department shall reassess the fair market value if the client provides acceptable evidence that:

(a) A good-faith effort has been made to sell the resource at the fair market value determined by the department; and

(b) The current worth of the resource is less than the resource standard.

(3) The department shall:

(a) Use the *National Automobile Dealers Association Official Used Car Guide* to determine the resource value of automobiles. For automobiles listed in this guide, the department shall presume the "average loan" value in the current edition represents the resource value.

(b) Use the *Kelley Bluebook R.V. Guide* to determine the resource value of recreational vehicles. For vehicles listed in this guide, the department shall presume the "wholesale" value in the current edition represents the resource value.

(c) Document the method used to determine the resource value in the case record for vehicles not listed in these guides.

(d) Document evidence in the case record when the values listed in these guides can be overcome by positive evidence to the contrary.

(4) The equity value in the cash discount value of a chattel mortgage or sales contract represents the value of the resource.

[Statutory Authority: RCW 74.08.090, P.L. 103-286 and Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act. 95-14-049 (Order 3862), § 388-216-2800, filed 6/28/95, effective 7/29/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-216-2800, filed 5/3/94, effective 6/3/94.]

Chapter 388-217 WAC
TRANSFER OF PROPERTY

WAC

WAC 388-217-3050 Transfer of property—Assessing property transfers. (1) The department shall determine whether a client transferred property:

(a) Within two years immediately prior to application;

(b) During the application process; or

(c) While the client is on assistance.

(2) When a transfer occurred within the time frames above, the department shall determine whether the client received adequate consideration for the transferred property as specified in WAC 388-217-3100 (1) and (2) or had a valid reason for receiving less than adequate consideration as specified under WAC 388-217-3100(3):

(a) If the client received adequate consideration or had a valid reason for receiving less than adequate consideration, the department shall not presume that the client transferred the property to qualify for assistance nor shall the department establish a period of ineligibility for such transfer; or

(b) If the client received less than adequate consideration without a valid reason, the department shall presume the client transferred the property with intent to qualify for assistance as specified under WAC 388-217-3150 and establish a period of ineligibility as specified under WAC 388-217-3150.

(3) The transfer of separate property by a spouse who is not included in the assistance unit does not affect the eligibility of the other spouse.

[Statutory Authority: RCW 74.04.050 and 74.98.335. 95-24-015 (Order 3924), § 388-217-3050, filed 11/22/95, effective 12/23/95. Statutory Authority: RCW 74.08.335. 94-04-043 (Order 3696), § 388-217-3050, filed 1/27/94, effective 2/27/94.]

WAC 388-217-3200 Transfer of property—Effect on need. (1) The transfer shall not affect the client's eligibility for assistance if the department determines that the transfer occurred for reasons other than with intent to qualify for assistance.

(2) If the department determines a client transferred property with intent to qualify for public assistance, the department shall:

(a) Consider the property available to meet the client's needs; and

(b) Establish a period of ineligibility.

(3) There is no effect on the client's eligibility for public assistance if the department determines a client received adequate consideration for the transferred resource.

[Statutory Authority: RCW 74.04.050 and 74.98.335. 95-24-015 (Order 3924), § 388-217-3200, filed 11/22/95, effective 12/23/95. Statutory Authority: RCW 74.08.335. 94-04-043 (Order 3696), § 388-217-3200, filed 1/27/94, effective 2/27/94.]

Chapter 388-218 WAC
AID TO FAMILIES WITH DEPENDENT CHILDREN—INCOME POLICIES

WAC

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-218-1515 Time-loss compensation—Unmarried parents. [Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1515, filed 5/3/94, effective 6/3/94.] Repealed by 95-14-047 (Order 3861), filed 6/28/95, effective 7/29/95. Statutory Authority: RCW 74.08.090 and Section 402 (A)(38) of the Social Security Act.

WAC 388-218-1050 Definitions. (1) **"Allocation"** means the process of determining the amount of income possessed by someone outside the AFDC assistance unit considered available to meet the needs of legal dependents in the assistance unit, or the process of determining the amount of income possessed by the assistance unit considered available to meet the needs of legal dependents outside the assistance unit.

(2) **"Available income"** means any income which a client possesses and can currently use to supply all or part of the clients' requirements.

(3) **"Budget month"** means the second calendar month preceding the payment month.

(4) **"Deeming"** means the process of determining the amount of an alien sponsor's income available to the alien.

(5) **"Earned income"** means income in cash or in-kind earned as wages, salary, commissions, or profit from activities in which the client is engaged as a self-employed person or as an employee. Earned income may be derived from self-employment (such as business enterprise or farming), or derived from wages or salary received as an employee. Earned income also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock, or poultry. Income from rentals is earned income, provided the client has managerial responsibility for the rental property.

(6) The definition of **"earned income"** includes:

(a) Earnings under Title I of the Elementary and Secondary Education Act;

(b) All earnings received under the Economic Opportunity Act;

(c) Wages from on-the-job training and work experience; and

(d) Wages paid under the Job Training Partnership Act (JTPA) and the National and Community Service Trust Act of 1993 (Americorps).

(7) The definition of **"earned income"** excludes:

(a) Returns from capital investment with respect to which the client is not actively engaged, as in a business. For example, under most circumstances, dividends and interest are excluded from "earned income."

(b) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, Social Security, etc.

(c) Income from incentive payments and training-related expenses derived from institutional or work experience training.

(d) Income received under the Job Training Partnership Act and Americorps for training allowances, payments for support services, etc.

(8) **"Earned income in-kind"** means the in-kind item is earned by work performed for another person by the client such as earning rent from a landlord, etc.

(9) **"Entitlement"** means any claim or interest, payable in cash or in-kind, a client may have in the following:

(a) Benefit;

(b) Compensation;

(c) Insurance;

(d) Pension (retirement, military, etc.);

(e) Bonus;

(f) Allotment; and

(g) Allowance, etc.

(10) **"Gross income"** means all income not specifically exempted by rule or regulation before applicable program disregards are applied.

(11) **"Income"** shall include, but is not limited to, all types of:

(a) Income from the lease or rental of real or personal property;

(b) Support from parent, stepparent, or other nonrelated adult;

(c) Interest or dividends from stocks and bonds as specified in WAC 388-218-1920 (3)(a);

(d) Wages, including garnished wages;

(e) Income from farming;

(f) Benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, and U.C.;

(g) Gifts and prizes in the form of cash or marketable securities; and

(h) Lump sum payments.

(12) **"Initial investments"** means real or personal property purchased directly with funds from an annuity fund or per capita payment up to the amount of the funds from the annuity fund or per capita payment.

(13) **"Lump sum payment"** means a nonrecurring unearned income. Lump sum payments may include, but are not limited to:

(a) Lottery, bingo, or gambling winnings;

(b) An inheritance;

(c) Personal injury award;

(d) Workers compensation awards; or

(e) Social Security back payments.

(14) **"Minor parent"** means a person who:

(a) Is seventeen years of age or younger; and

(b) Is the parent of a minor child living in the home; and

(c) Resides in the same household with an adult responsible for the minor parent's support.

(15) **"Net income"** means gross income less applicable disregards and deductions for which the client is eligible.

(16) **"Newly acquired income"** means any previously unreported or undiscovered income a client possesses or controls in whole or in part.

(17) **"Payment month"** means the calendar month for which payment is made.

(18) **"Process month"** means the calendar month between the budget month and the payment month.

(19) **"Self-produced"** means an item produced by a client, as opposed to an item purchased by a client, given to a client, or earned by a client in lieu of wages.

(20) **"Student"** means a client attending a school, college or university, or a course of vocational or technical training designed to fit the client for gainful employment. A full-time student must have a school schedule equal to a full-time curriculum. A part-time student must have a school schedule equal to at least one-half of a full-time curriculum. A student enrolled during the school term just completed and planning to return to school when school reopens shall retain status as a student during the summer vacation.

(21) **"Supplied"** means the in-kind item is furnished to the client without work or cost.

(22) **"Unearned income"** means income not directly resulting from a client's employment or self-employment.

[Statutory Authority: RCW 74.08.090 and Section 402 (A)(38) of the Social Security Act. 95-14-047 (Order 3861), § 388-218-1050, filed 6/28/95, effective 7/29/95. Statutory Authority: RCW 74.08.090 and Public Law 103-82, 45 CFR 233.20 (a)(6)(iii) and (vi) and 233.20 (a)(11). 95-04-048 (Order 3829), § 388-218-1050, filed 1/25/95, effective 2/25/95. Statutory Authority: RCW 74.08.090. 94-16-044 (Order 3759), § 388-218-1050, filed 7/27/94, effective 9/1/94; 94-10-065 (Order 3732), § 388-218-1050, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1200 Exempt income types. The department shall exempt the following from consideration as income when determining need:

(1) The income of a supplemental security income recipient. The department shall not count nonrecurring lump sum SSI retroactive payments made to an AFDC client as income in the month paid nor in the next following month;

(2) AFDC benefits resulting from a court order modifying a department policy;

(3) Title IV-E, state and/or local foster care maintenance payments;

(4) Adoption support payments if the adopted child is excluded from the assistance unit;

(5) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, section 218;

(6) The food coupon allotment under Food Stamp Act of 1977;

(7) Compensation to volunteers under the Domestic Volunteer Act of 1973, P.L. 93-113, Titles I, II, and III;

(8) Benefits under women, infants and children program (WIC);

(9) Food service program for children under the National School Lunch Act of 1966, P.L. 92-433 and 93-150;

(10) Energy assistance payments;

(11) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(12) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(13) A previous underpayment of assistance under WAC 388-33-195. The department shall not consider such retroactive corrective AFDC payments as income in the month paid nor in the next following month;

(14) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims, P.L. 101-201. The effective date of the disregard is retroactive to January 1, 1989;

(15) Payments made under the Disaster Relief Act of 1974, P.L. 93-288, as amended by Disaster and Relief and Emergency Assistance Amendments of 1988, P.L. 100-707. This applies to assistance issued by federal, state, or local governments or by a disaster assistance organization;

(16) Payments from the Radiation Exposure Compensation Act, P.L. 101-426, made to an injured person, surviving spouse, children, grandchildren, or grandparents;

(17) Earned income tax credit;

(18) Payments made to victims of Nazi persecution, under public law P.L. 103-286; and

(19) Payments made from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act trust fund, pursuant to P.L 93-134. Funds paid, interest or investment income earned on such funds, and any payment authorized by the tribe or the Secretary of the Interior are not counted as income.

(20) Income specifically excluded by any other federal statute from consideration as income.

[Statutory Authority: P.L. 103-286, RCW 74.08.090 and The Confederated Tribes of the Colville Reservation Grand Coule Dam Settlement Act. 95-11-124 (Order 3857), § 388-218-1200, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.08.090. 94-16-044 (Order 3759), § 388-218-1200, filed 7/27/94, effective 9/1/94; 94-10-065 (Order 3732), § 388-218-1200, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1350 Deductible self-employment expenses. The department shall consider the following items as deductible business expenses in a self-employment enterprise:

(1) Rental of business equipment or property.

(2) Utilities.

(3) Postage.

(4) Telephone.

(5) Office supplies.

(6) Advertising.

(7) Insurance.

(8) Legal, accounting, and other professional fees.

(9) The cost of goods sold, including wages paid to employees producing salable goods, raw materials, stock, and replacement or reasonable accumulation of inventory, provided inventory has been declared exempt on the basis of an agreed plan pursuant to WAC 388-216-2500.

(10) Interest on business indebtedness.

(11) Wages and salaries paid to employees not producing salable goods.

(12) Commissions paid to agents and independent contractors.

(13) Documented and verified costs of self-employment business-related transportation. These costs are limited to gas, oil, and fluids; necessary services and repairs; replacement of worn items such as tires; registration and licensing fees; and interest on automobile loans.

(a) The client may choose:

(i) To itemize the actual operating cost of a vehicle; or

(ii) A cost per mile established by the department using a prevailing rate based on market standards.

(b) The cost of tolls and parking related to the business shall be deducted as a business expense.

(c) If a vehicle is needed for both business and private purposes, the mileage and expenses attributable to the business must be documented in a daily log and is subject to verification by the department.

(d) Transportation to and from the place of business is not a business expense, but is a personal work expense and is covered by the work expense deduction.

(14) Nonpersonal taxes on the business and business property, including the employer's share of federal Social Security taxes on business employees and state and federal unemployment insurance contributions, if any. The self-employed person's personal income taxes and self-employment taxes are not business deductions, but are work expenses covered by the work expense deduction.

(15) Repairs to business equipment and property, excluding vehicles. An expenditure to maintain property in its usual working condition is deductible as a repair.

(16) Other expenditures reasonable and necessary to the efficient and profitable operation of the self-employment enterprise.

[Statutory Authority: P.L. 103-286, RCW 74.08.090 and The Confederated Tribes of the Colville Reservation Grand Coule Dam Settlement Act. 95-11-124 (Order 3857), § 388-218-1350, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1350, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1400 Earned income types. The department shall consider the following income types as earned income and treat accordingly:

(1) Employment partnership program wages.

(2) Foster care retainer fees received to reserve beds for foster children when a public assistance client operates a foster home for children.

(3) Earned income in-kind items shall be evaluated in terms of their cash equivalent.

(4) Self-employment income from the management and operation of a rooming, boarding, or boarding and rooming home. See WAC 388-218-1320 Board, room rental, board and room income, to determine net income.

(5) Wages, salary, commissions, or profit from activities in which a client is engaged as a self-employed person or as an employee earned in cash or in-kind.

(6) State temporary disability insurance payments and temporary worker's compensation payments which are analogous to sick pay when such payments are employer funded and made to an individual who remains employed during recuperation from a temporary illness or injury

pending return to the job. Recurrent time loss benefits from the department of labor and industries are examples of benefits meeting this criteria.

[Statutory Authority: RCW 74.08.090 and Public Law 103-82, 45 CFR 233.20 (a)(6)(iii) and (vi) and 233.20 (a)(11). 95-04-048 (Order 3829), § 388-218-1400, filed 1/25/95, effective 2/25/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1400, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1450 Thirty dollars and one-third disregard. (1) For each nonstudent dependent child and adult found otherwise eligible to receive assistance or having received assistance in one of the four prior months, disregard thirty dollars and one-third of the remainder not already disregarded.

(2) The thirty dollars and one-third disregard shall be applied for a maximum of four consecutive months and cannot be applied again until the client has been a nonrecipient for twelve consecutive months.

(3) For clients participating in a work supplementation program, such as EPP, the thirty dollars and one-third disregard shall be applied for a maximum of nine consecutive months and cannot be applied again until the client has been a nonrecipient for twelve consecutive months.

(4) Months in which the client received the thirty dollars and one-third exemption in another state shall not apply toward the applicable time limits.

[Statutory Authority: P.L. 103-286, RCW 74.08.090 and The Confederated Tribes of the Colville Reservation Grand Coule Dam Settlement Act. 95-11-124 (Order 3857), § 388-218-1450, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1450, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1500 Unearned income types. (1) Unearned income shall include but is not limited to the following types:

(a) Child support when not a pass-through payment or DCS assignment has not been completed;

(b) Gate money from adult corrections;

(c) Labor and industries benefits, except those worker's compensation payments which are treated as earned income in WAC 388-218-1400(6);

(d) Railroad retirement;

(e) Social Security disability and retirement;

(f) Unemployment compensation; and

(g) Veteran administration benefits.

(2) Unless specifically exempt or disregarded from consideration when determining need, unearned income shall be deducted in its entirety from the payment standard plus authorized additional requirements.

[Statutory Authority: RCW 74.08.090 and Public Law 103-82, 45 CFR 233.20 (a)(6)(iii) and (vi) and 233.20 (a)(11). 95-04-048 (Order 3829), § 388-218-1500, filed 1/25/95, effective 2/25/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1500, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1510 Time-loss compensation—Lien. (1) The department shall file a lien and notice to withhold and deliver, with labor and industries or the self-insurer, to recover time-loss compensation payable to a public assistance client, for injury or illness.

(2) The department shall mail a copy of the notice to the client no later than the following work day.

(3) By accepting public assistance, adult and minor clients shall subrogate to the department the clients' right to recover time-loss compensation.

(4) The department shall compute payments for time-loss compensation and public assistance paid for less than a full month on the actual number of days paid.

(5) The department shall not make a further claim under this lien when:

(a) Duplicated benefits terminate; or

(b) Continued assistance is required to supplement time-loss compensation to bring the assistance unit up to the grant standard.

(6) When the client or client's attorney claims allowable attorney fees and costs, incidental to an increased award, the office of financial recovery, department of social and health services shall:

(a) Request an itemized billing from the attorney;

(b) Determine what portion of the award, if any, resulted directly from the attorney's involvement;

(c) Determine the department's proportionate share of attorney fees and costs applicable to the duplicate coverage period; and

(d) Deduct the department's share of cost in (c) of this subsection from the lien for duplicated assistance; or

(e) Issue the proportionate share refund to the attorney with a copy of the account summary to the client.

(7) The department shall advise a client of the provisions in this section when the client may be eligible for time-loss compensation.

(8) The department shall advise a client of the client's right to a fair hearing as provided in chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090 and Section 402 (A)(38) of the Social Security Act. 95-14-047 (Order 3861), § 388-218-1510, filed 6/28/95, effective 7/29/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1510, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1515 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-218-1520 Income from employment or training programs. (1) Payments issued under the Job Training Partnership Act (JTPA) and the National and Community Service Trust Act of 1993 (Americorps) shall be treated as follows:

(a) Wages paid under the Job Training Partnership Act (JTPA) and living allowances or stipends paid under the National and Community Service Trust Act of 1993 (Americorps) shall be considered earned income and treated accordingly. See WAC 388-218-1690 Allocation of the income of an ineligible child, for the treatment of the income of a child excluded from the grant. See WAC 388-218-1410 Earned income of a child, for the treatment of the income of a student.

Americorps/VISTA stipends and living allowances are paid to VISTA volunteers under the Domestic Volunteer Act of 1973. These payments are exempt as earned or unearned income.

(b) Needs based payments issued under the JTPA and Americorps shall be evaluated as follows:

(i) Payments which cover special needs not covered in the department need standard shall be disregarded as duplication of need does not exist.

(ii) Payments which duplicate items contained in the department need standard shall be treated in accordance with the policies contained in WAC 388-218-1540 Assistance from other agencies and organizations.

(2) Wages paid from on-the-job training or work experience are considered earned income and treated accordingly.

[Statutory Authority: RCW 74.08.090 and Public Law 103-82, 45 CFR 233.20 (a)(6)(iii) and (vi) and 233.20 (a)(11). 95-04-048 (Order 3829), § 388-218-1520, filed 1/25/95, effective 2/25/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1520, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1605 Allocation of income—Multiple assistance units. (1) The department shall allocate all nonexempt net income possessed by an assistance unit member to meet the needs of the assistance unit, except when families are comprised of two or more assistance units.

(2) The department shall allocate an equal portion of the total nonexempt net community income, including income in-kind, to meet the needs of each assistance unit unless:

(a) The family prefers some other division; and

(b) The preferred division does not increase the total amount of assistance, excluding medical care.

[Statutory Authority: P.L. 103-286, RCW 74.08.090 and The Confederated Tribes of the Colville Reservation Grand Coule Dam Settlement Act. 95-11-124 (Order 3857), § 388-218-1605, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1605, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1610 Allocation of parental income and support. (1) Support payments made by or in behalf of an absent parent are income to the child(ren) and are to be treated in accordance with WAC 388-14-210 Support payments to office of support enforcement.

(2) When the custodial parent is not included in the assistance unit because of noncompliance with WAC 388-215-1400 Support enforcement—Assignment of support rights—Cooperation with office of support enforcement or WAC 388-47-210, JOBS program—Sanctions for refusal or failure to participate:

(a) The income of such parents is budgeted according to WAC 388-218-1630 Allocation of income for support of legal dependents;

(b) Support payments paid directly to the parent and not forwarded to the office of support enforcement are income to the child(ren) and are to be taken into account in determining the need of the assistance unit.

[Statutory Authority: P.L. 103-286, RCW 74.08.090 and The Confederated Tribes of the Colville Reservation Grand Coule Dam Settlement Act. 95-11-124 (Order 3857), § 388-218-1610, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1610, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1630 Allocation of assistance unit income for support of legal dependents. (1) The department shall budget the income of a parent or stepparent included in the assistance unit to meet the needs of the assistance unit after allocating an amount for:

(a) Support of other dependents not eligible for inclusion in the assistance unit for factors other than sanction or noncooperation, not to exceed the appropriate payment standard for an assistance unit of the same composition;

(b) Court or administratively ordered support for a legal dependent, not to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent;

(2) The department shall consider a dependent to be one who:

(a) Is or could be claimed for federal income tax purposes by the parent or stepparent; or

(b) The parent or stepparent is legally obligated to support.

[Statutory Authority: P.L. 103-286, RCW 74.08.090 and The Confederated Tribes of the Colville Reservation Grand Coule Dam Settlement Act. 95-11-124 (Order 3857), § 388-218-1630, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1630, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1680 Allocation of income to pregnant women. (1) The department shall use the need standard that reflects the number of people in the family as though the child were born when applying the WAC 388-218-1720 One hundred eighty-five percent of need test. Include the father when residing in the client's home.

(2) The department shall use the payment standard that reflects the number of people in the family as though the child were born when applying the WAC 388-218-1740 Payment standard test. Include the father when residing in the client's home.

(3) The department shall follow the rules specified in WAC 388-218-1640 Allocation of nonassistance unit income for support of legal dependents, for the allocation of income to a pregnant woman when the parents are married and the father resides in the client's home.

[Statutory Authority: P.L. 103-286, RCW 74.08.090 and The Confederated Tribes of the Colville Reservation Grand Coule Dam Settlement Act. 95-11-124 (Order 3857), § 388-218-1680, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1680, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1695 Deeming of income—Alien sponsorship. (1) For a period of three years following entry for permanent residence into the United States, an individually sponsored alien shall provide the state agency with any information and documentation necessary to determine the income of the sponsor that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

(2) For all subsections in this section, the department shall deem the income of an individual sponsor (and the sponsor's spouse if living with the sponsor) to be the unearned income of an alien for three years following the alien's entry for permanent residence into the United States.

(3) Monthly income deemed available to the alien from the individual sponsor or the sponsor's spouse not receiving AFDC or SSI shall be:

(a) The sponsor's total monthly unearned income, added to the sponsor's total monthly earned income reduced by twenty percent (not to exceed one hundred seventy-five dollars) of the total of any amounts received by the sponsor in the month as wages or salary or as net earnings from self-

employment, plus the full amount of any costs incurred in producing self-employment income in the month.

(b) The amount described in (a) of this subsection reduced by:

(i) The basic requirements standard for a family of the same size and composition as the sponsor and those other persons living in the same household as the sponsor claimed by the sponsor as dependents to determine the sponsor's federal personal income tax liability but who are not AFDC recipients;

(ii) Any amounts actually paid by the sponsor to persons not living in the household claimed by the sponsor as dependents to determine the sponsor's federal personal income tax liability; and

(iii) Actual payments of alimony or child support, with respect to persons not living in the sponsor's household.

(4) In any case where a person is the sponsor of two or more aliens, the department shall divide the income of the sponsor, to the extent they would be deemed the income of any one of the aliens under provisions of this section, equally among the aliens.

(5) The department shall not consider the income which is deemed to a sponsored alien in determining the need of other unsponsored members of the alien's family except to the extent the income is actually available.

[Statutory Authority: RCW 74.04.050 and 74.08.090. 95-19-005 (Order 3890), § 388-218-1695, filed 9/6/95, effective 10/7/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1695, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1730 One hundred percent of need test. (1) The assistance unit's monthly nonexempt unearned income plus monthly earned income, less allowable disregards, shall be below the appropriate state need standard plus additional requirements.

(2) This test does not apply if the assistance unit received AFDC in one of the four months before the month of application.

[Statutory Authority: P.L. 103-286, RCW 74.08.090 and The Confederated Tribes of the Colville Reservation Grand Coule Dam Settlement Act. 95-11-124 (Order 3857), § 388-218-1730, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1730, filed 5/3/94, effective 6/3/94.]

WAC 388-218-1830 Treatment of income—Suspension of a grant. (1) See chapter 388-245 WAC for effective dates of ineligibility.

(2) The department shall suspend rather than terminate if:

(a) The department has knowledge of or reason to believe ineligibility would be only for one payment month; and

(b) Ineligibility for that one payment month was caused by income or other circumstances in the corresponding budget month.

(3) The department shall continue the budgeting process regardless of suspension unless a significant change (i.e., loss of employment) occurs in the suspense month. See WAC 388-218-1910, Retrospective budgeting.

[Statutory Authority: RCW 74.04.050 and 45 CFR 233.34 (c) and (d). 96-01-008 (Order 3934), § 388-218-1830, filed 12/6/95, effective 1/6/96. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-218-1830, filed 5/3/94, effective 6/3/94.]

Chapter 388-225 WAC
CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM—CEAP

WAC

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-225-0300 Crisis intervention social services for families and children. [Statutory Authority: RCW 74.08.090. 94-06-026 (Order 3707), § 388-225-0300, filed 2/23/94, effective 3/26/94.] Repealed by 95-11-046 (Order 3851), filed 5/10/95, effective 6/10/95. Statutory Authority: RCW 74.08.090.

WAC 388-225-0020 General provisions. The department shall authorize CEAP for the following persons who meet the eligibility conditions established in this chapter:

(1) A family with dependent children; or

(2) A pregnant woman with no other children; or

(3) A dependent child who is or may be bound for foster care placement. Assistance provided for the child is specified under chapter 388-165 WAC.

[Statutory Authority: RCW 74.08.090. 95-11-046 (Order 3851), § 388-225-0020, filed 5/10/95, effective 6/10/95; 94-06-026 (Order 3707), § 388-225-0020, filed 2/23/94, effective 3/26/94.]

WAC 388-225-0300 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-233 WAC
GENERAL ASSISTANCE FOR CHILDREN

WAC

WAC 388-233-0010 Purpose of program. General assistance for children is a state-funded program providing for the needs of dependent children, residing with court-appointed legal guardians or court-appointed permanent custodians who are not eligible for the aid to families with dependent children program.

[Statutory Authority: RCW 74.08.090. 95-24-013 (Order 3926), § 388-233-0010, filed 11/22/95, effective 1/1/96. Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0010, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0020 Summary of eligibility conditions. Effective March 11, 1993, the department shall grant general assistance for children to a child who meets the eligibility conditions stated in this chapter and:

(1) Who resides with and is in the home of a court-appointed legal guardian or court-appointed permanent custodian; and

(2) Who is not eligible for or not receiving aid to families with dependent children or SSI; and

(3) Who is not under sanction for failure to comply with aid to families with dependent children or SSI requirements; and

(4) Whose court-appointed permanent custodian or court-appointed legal guardian is not a relative of a specified degree as defined under the aid to families with dependent children program; and

(5) Who is not living with a relative of a specified degree, as defined under the aid to families with dependent children program, who is:

(a) A parent; or

(b) Exercising parental control over the child.

[Statutory Authority: RCW 74.08.090. 95-24-013 (Order 3926), § 388-233-0020, filed 11/22/95, effective 1/1/96. Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0020, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0050 Eligibility conditions—Assignment of rights to support. (1) The court-appointed legal guardian or court-appointed permanent custodian shall give consent to the division of child support to take assignment of any rights to support in behalf of the eligible child as required under chapter 388-14 WAC.

(2) The department shall require the court-appointed legal guardian or court-appointed permanent custodian to promptly remit to the division of child support any support received directly after assignment is made, as required under chapter 388-14 WAC.

[Statutory Authority: RCW 74.08.090. 95-24-013 (Order 3926), § 388-233-0050, filed 11/22/95, effective 1/1/96. Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0050, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0060 Eligibility conditions—Support enforcement cooperation. (1) The department shall require the court-appointed legal guardian or court-appointed permanent custodian to cooperate with the division of child support in the collection of child support.

(2) The department shall waive the requirement for cooperation if the court-appointed legal guardian or court-appointed permanent custodian claims and the department establishes good cause as specified under chapter 388-215 WAC.

[Statutory Authority: RCW 74.08.090. 95-24-013 (Order 3926), § 388-233-0060, filed 11/22/95, effective 1/1/96; 94-16-044 (Order 3759), § 388-233-0060, filed 7/27/94, effective 9/1/94. Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0060, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0070 Eligibility conditions—Financial criteria. (1) In determining financial eligibility, the department shall follow aid to families with dependent children income, resource, and transfer of property rules.

(2) Child support received shall be considered as unearned income of the child.

(3) The department shall consider only the income and resources of the eligible child.

[Statutory Authority: RCW 74.08.090. 95-24-013 (Order 3926), § 388-233-0070, filed 11/22/95, effective 1/1/96; 4-16-044 (Order 3759), § 388-233-0070, filed 7/27/94, effective 9/1/94. Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0070, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0090 Grant payee. The department shall establish the court-appointed legal guardian or court-appointed permanent custodian as the payee for the eligible child.

[Statutory Authority: RCW 74.08.090. 95-24-013 (Order 3926), § 388-233-0090, filed 11/22/95, effective 1/1/96. Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0090, filed 8/11/93, effective 9/11/93.]

Chapter 388-235 WAC
GENERAL ASSISTANCE UNEMPLOYABLE

WAC

WAC 388-235-9000 Benefits from other programs. (1) The department shall deny a request for, or terminate, general assistance-unemployable (GAU) to a person:

(a) Eligible for or receiving aid to families with dependent children (AFDC);

(b) Eligible for or whose needs are met by SSI, except as provided under WAC 388-235-9300;

(c) Under sanction for failure to comply with AFDC or supplemental security income (SSI) requirements;

(d) Failing or refusing to cooperate without good cause in obtaining AFDC or SSI;

(e) Unemployable due to alcohol or drug addiction. The department shall refer such person to the alcoholism and drug addiction treatment and support program.

(2) If otherwise eligible, the department shall not deny requests for GAU to a person found ineligible for AFDC, as described under WAC 388-215-1820.

[Statutory Authority: RCW 74.08.990 and Bordner vs. Rahm #84-2-00435-2. 95-03-048 (Order 3824), § 388-235-9000, filed 1/11/95, effective 2/11/95. Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-9000, filed 7/29/93, effective 8/29/93.]

Chapter 388-250 WAC
GRANT STANDARDS

WAC

WAC 388-250-1200 Standards of assistance—Basic requirements—Need and payment standards. The

statewide monthly need and payment standards for basic requirements shall be determined by whether a household has an obligation to pay shelter costs.

(1) A household with an obligation to pay shelter costs includes:

(a) A person owning, purchasing, or renting. This includes payment of only costs of property taxes, or fire insurance, or sewer, or water, or garbage;

(b) A person residing in a lower income housing project, assisted under the United States Housing Act of 1937, or Section 236 of the National Housing Act, if the person either pays rent or makes a utility payment in lieu of a rental payment;

(c) A person or family who is homeless. Effective April 23, 1990, a person or family is considered homeless if the person or family:

(i) Lacks a fixed, regular, and adequate nighttime residence; or

(ii) Resides in a public or privately operated shelter designed to provide temporary living accommodations; or

(iii) Lives in temporary lodging provided through a public or privately funded emergency shelter program.

(2) A household with shelter provided at no cost includes requirements for shelter, food, clothing, energy, personal maintenance and necessary incidentals, household maintenance and operations, and transportation.

[Statutory Authority: RCW 74.04.050 and 45 CFR 233.20 (a)(2). 95-07-123 (Order 3843), § 388-250-1200, filed 3/22/95, effective 4/22/95. Statutory Authority: RCW 74.08.090. 94-09-001 (Order 3729), § 388-250-1200, filed 4/6/94, effective 5/7/94.]

WAC 388-250-1250 Standards of assistance—Need standards. (1) Effective September 1, 1995, the department shall determine the statewide monthly need standard for a household with an obligation to pay shelter to be:

Recipients in Household	Need Standard
1	$ 800
2	1,011
3	1,252
4	1,472
5	1,696
6	1,925
7	2,223
8	2,461
9	2,703
10 or more	2,937

(2) Effective September 1, 1995, the department shall determine a household with shelter provided at no cost, except as described under WAC 388-250-1200, to be:

Recipients in Household	Need Standard
1	$ 500
2	632
3	783
4	920
5	1,060
6	1,204
7	1,390
8	1,539
9	1,690
10 or more	1,836

[Statutory Authority: RCW 74.08.025, 74.08.090, 80.36.420 (3)(a)(b) and 45 CFR 233.20 (a)(l)(i). 95-21-049 (Order 3910), § 388-250-1250, filed 10/11/95, effective 11/11/95. Statutory Authority: RCW 74.04.050 and 45 CFR 233.20 (a)(1) and (2). 94-20-039 (Order 3784), § 388-250-1250, filed 9/28/94, effective 10/29/94. Statutory Authority: RCW 74.08.090. 94-09-001 (Order 3729), § 388-250-1250, filed 4/6/94, effective 5/7/94.]

WAC 388-250-1300 Standards of assistance—One hundred eighty-five percent of need standards. (1) Effective September 1, 1995, the department shall determine one hundred eighty-five percent of the statewide monthly need standard for basic requirements for a household with an obligation to pay shelter costs to be:

Recipients in Household	185% of Need Standard
1	$ 1,480
2	1,870
3	2,316
4	2,723
5	3,137
6	3,561
7	4,112
8	4,552
9	5,000
10 or more	5,433

(2) Effective September 1, 1995, the department shall determine one hundred eighty-five percent of the statewide monthly need standard for basic requirements for a household with shelter provided at no cost to be:

Recipients in Household	185% of Need Standard
1	$ 925
2	1,169
3	1,448
4	1,702
5	1,961
6	2,227
7	2,571
8	2,847
9	3,126
10 or more	3,396

[Statutory Authority: RCW 74.08.025, 74.08.090, 80.36.420 (3)(a)(b) and 45 CFR 233.20 (a)(l)(i). 95-21-049 (Order 3910), § 388-250-1300, filed 10/11/95, effective 11/11/95. Statutory Authority: RCW 74.04.050 and 45 CFR 233.20 (a)(1) and (2). 94-21-043 (Order 3797), § 388-250-1300, filed 10/12/94, effective 11/12/94. Statutory Authority: RCW 74.08.090. 94-09-001 (Order 3729), § 388-250-1300, filed 4/6/94, effective 5/7/94.]

WAC 388-250-1700 Standards of assistance—Supplemental security income. Effective November 1, 1995, the standards of SSI assistance paid to an eligible individual and couple are:

(1) Living alone (own household or alternate care, except nursing homes or medical institutions).

	Standard	Federal SSI Benefit	State Supplement
Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties			
Individual	$481.80	$458.00	$ 23.80
Individual with one essential person	705.70	687.00	18.70
Couple:			
Both eligible	705.70	687.00	18.70
Includes one essential person	705.70	687.00	18.70
Includes ineligible spouse	600.97	458.00	142.97
Area II: All Counties Other Than the Above			
Individual	$464.42	458.00	6.42
Individual with one essential person	687.00	687.00	0
Couple:			
Both eligible	687.00	687.00	0
Includes one essential person	687.00	687.00	0
Includes ineligible spouse	575.51	458.00	117.51

Areas I and II:

Eligible individual with more than one essential person: $458 for eligible individual plus $229 for each essential person (no state supplement).

Eligible couple with one or more essential persons: $687 for eligible couple plus $229 for each essential person (no state supplement).

(2) Shared living (Supplied shelter): Area I and II

	Standard	Federal SSI Benefit	State Supplement
Individual	$310.28	$305.34	$ 4.94
Individual with one essential person	463.35	458.00	5.35
Couple:			
Both eligible	463.35	458.00	5.35
Includes one essential person	463.35	458.00	5.35
Includes ineligible spouse	393.54	305.34	88.20

Area I and II:
Eligible individual with more than one essential person: $305.34 for eligible individual plus $152.66 for each essential person (no state supplement).

Eligible couple with one or more essential persons: $458 for eligible couple plus $152.66 for each essential person (no state supplement).

(3) Residing in a medical institution: Area I and II

	Standard	Federal SSI Benefit	State Supplement
No change	$41.62	$30.00	$11.62

(4) Mandatory income level (MIL) for grandfathered claimant. Reduced by five dollars and sixty-one cents for all MIL clients, except for those converted in a "D" living arrangement (residing in a medical institution at the time of conversion).

[Statutory Authority: RCW 74.08.090 and 1995 Budget Bill. 95-20-028 (Order 3903), § 388-250-1700, filed 9/27/95, effective 10/28/95. Statutory Authority: RCW 74.04.050 and 45 CFR 233.20 (a)(2)(vi). 95-03-046 (Order 3822), § 388-250-1700, filed 1/11/95, effective 2/11/95. Statutory Authority: 1994 sp.s. c 6. 94-15-003 (Order 3750), § 388-250-1700, filed 7/7/94, effective 8/7/94. Statutory Authority: RCW 74.08.090. 94-09-001 (Order 3729), § 388-250-1700, filed 4/6/94, effective 5/7/94.]

WAC 388-250-1750 Standards of assistance—Additional requirements. (1) The department shall determine:

(a) **Restaurant meals** - Effective January 1, 1993, the monthly standard for restaurant meals to be one hundred eighty-seven dollars and nine cents.

(b) **Home-delivered meals** - The monthly standard to be the amount charged by the agency delivering the service when a plan for use of this service is approved by the department.

(c) **Food for guide dog or service animal** - Effective January 1, 1991, the monthly standard for food for guide dog or service animal to be thirty-three dollars and sixty-six cents.

(d) **Telephone** - The monthly standard for telephone is the amount of the client threshold for the Washington telephone assistance program (WTAP) or the minimum standard residential rate available in the area for the service, whichever is less.

(e) **Laundry** - Effective January 1, 1993, the monthly standard for laundry to be eleven dollars and thirteen cents.

(f) **Winterizing homes—AFDC** - Effective January 1991, the maximum allowance for winterizing a home is five hundred dollars.

(2) The department shall ensure the total of payments made under this section for one month does not exceed one month's AFDC payment standard for a household with an obligation to pay for shelter. See Additional requirements—Emergent needs situations (WAC 388-255-1350).

[Statutory Authority: RCW 74.08.025, 74.08.090, 80.36.420 (3)(a)(b) and 45 CFR 233.20 (a)(l)(i). 95-21-049 (Order 3910), § 388-250-1750, filed 10/11/95, effective 11/11/95. Statutory Authority: RCW 74.08.090. 94-09-001 (Order 3729), § 388-250-1750, filed 4/6/94, effective 5/7/94.]

Chapter 388-255 WAC
SPECIAL PAYMENTS

WAC

WAC 388-255-1200 Additional requirement—Telephone. (1) The department may authorize additional requirements for telephone assistance for clients eligible for AFDC grants, refugee cash assistance, general assistance grants, or SSI benefits.

(2) The department shall authorize telephone services as an additional requirement when the department determines:

(a) The lack of a telephone would endanger the clients life or make a more expensive type of care necessary;

(b) The function of a telephone cannot be performed by other means, including the help of neighbors, relatives or other community services; and

(c) The client has requested participation through their local telephone company in the Washington Telephone Assistance Program.

(3) The monthly standard for telephone is described under WAC 388-250-1750.

[Statutory Authority: RCW 74.08.090. 96-01-017 (Order 3935), § 388-255-1200, filed 12/8/95, effective 1/8/96; 94-09-001 (Order 3729), § 388-255-1200, filed 4/6/94, effective 5/7/94.]

Chapter 388-265 WAC
PAYMENT OF GRANTS

WAC

WAC 388-265-1750 Protective payee fees. (1) The department may authorize a fee to cover approved administrative costs of the protective payee under the following conditions:

(a) The person serving as protective payee is not a friend, relative, or department employee; and

(b) The client is eligible for:

(i) GA-U;

(ii) AFDC when the department has determined a client is unable to manage the client's assistance funds; or

(iii) GA or AFDC and is a pregnant or parenting minor, and protective payment established under RCW 74.04.0052 or RCW 71.12.255.

(2) The department shall not allow the protective payee to withhold money from the client's grant for payment of the protective payee's costs or services.

(3) "Administrative costs fee" means a fixed amount per assistance recipient, as set forth in the contract between the protective payee and the department.

[Statutory Authority: RCW 74.08.090, 1994 c 299 § 33, RCW 74.08.280 and 74.50.060(2). 95-11-119 (Order 3858), § 388-265-1750, filed 5/24/95, effective 6/24/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-265-1750, filed 5/3/94, effective 6/3/94.]

Chapter 388-290 WAC
CHILD CARE

WAC

WAC 388-290-010 Child care and other work-related supportive services—Purpose. The purpose of this program is to provide child care and other support services necessary to assist families with dependent children to become self-sufficient.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-010, filed 11/8/95, effective 12/9/95.]

WAC 388-290-020 Definitions. Except as specified in this chapter, terms used under chapter 388-290 WAC shall have the same meaning applied to the AFDC program, as terms defined under chapters 388-22 and 388-250 WAC, and to the JOBS program under chapter 388-47 WAC.

(1) "Able" means physically and/or mentally capable of caring for a child in a responsible manner.

(2) "Applicable standards" means standards and practices related to child care under chapter 388-73 WAC or, in the case of a tribal JOBS program, tribal law.

(3) "Child care overpayment" means any child care payment received by or for an assistance unit for a month which exceeds the amount the unit was eligible to receive.

(4) "Co-payment" means the computed amount which the parent pays toward the child's cost of care.

(5) "JOBS" means the job opportunities and basic skills training program for eligible AFDC families which assists obtaining education, training, and employment needed to avoid long-term welfare dependence.

(6) "Support services" means child care, and other services provided for under federal law, that may be required, enabling an AFDC applicant or recipient to pursue employment, education, and training under chapter 388-47 WAC JOBS training program.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-020, filed 11/8/95, effective 12/9/95.]

WAC 388-290-040 Assurances and responsibilities under JOBS, income assistance, and transitional child care. (1) The department shall assure:

(a) Supportive services needed to enable a participant with an approved employability plan to participate in accordance with that approved plan in the JOBS program;

(b) Child care services meet applicable standards of state or tribal law as described under WAC 388-15-170;

(c) An entity providing child care allows parental access;

(d) The child's individual needs are taken into account when the department provides or arranges for child care and other supportive services; and

(e) Child care provided or claimed for payment is related to a person's JOBS program participation or employment hours.

(2) The department shall:

(a) Inform applicants or recipients about child care and supportive services available under this chapter;

(b) Respond to requests for child care services within a reasonable period of time;

(c) Inform applicants or recipients of the types and locations of child care services available to help them select child care services;

(d) Inform applicants or recipients of the child care options for which the department can make payment as described under WAC 388-290-110. The department shall:

(i) Provide information on transitional child care to all families terminating from AFDC; and

(ii) Include information on how to request transitional child care in the informational material provided to families terminating from AFDC.

(e) Inform applicants or recipients of their rights and responsibilities in relation to child care and support services;

(f) Provide timely child care payments to the provider; and

(g) Provide advance and adequate notice to recipients of reduction, suspension, or termination of child care benefits.

(3) The recipient shall:

(a) Choose the provider and make the child care arrangements;

(b) Immediately notify the department of any change in providers;

(c) Pay the in-home care giver when the department pays the applicant or recipient for in-home care;

(d) Pay any required co-payment;

(e) Supply the department with necessary information to allow payment to the authorized provider; and

(f) Immediately notify the provider when the department discontinues or changes the child care authorization.

(4) The provider shall provide:

(a) Parental access;

(b) Constant supervision of a child under care throughout the time such person is the provider;

(c) Developmentally appropriate activities for a child under provider's care; and

(d) Access to attendance records by appropriate state and federal government representatives.

(5) The provider shall meet licensing and contracting requirements as required under chapter 388-73 WAC.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-040, filed 11/8/95, effective 12/9/95.]

WAC 388-290-110 JOBS, income assistance, and transitional child care programs. (1) The department shall guarantee child care by:

(a) Paying providers for center care or family day care when the provider is:

(i) Licensed under chapter 74.15 RCW and chapter 388-73 WAC;

(ii) Exempt from licensure under chapter 74.15 RCW and chapter 388-73 WAC;

(iii) A tribal day care center meeting the requirements of tribal law and certified by the department;

(iv) A child care facility, certified by the department, on a military installation; or

(v) A child care facility operated on public school property by a school district.

(b) Paying the recipient for in-home care provided the care taker meets the requirements as described under WAC 388-15-170 (8). In-home care shall include care given in the child's home or in a relative's home if the relative is:

(i) An adult sibling living outside the child's home; or

(ii) Grandparents, aunts, uncles, or first cousins.

(c) Allowing the dependent care earnings disregard for employed AFDC recipients. The department shall allow a disregard when the household:

(i) Received AFDC on October 13, 1988, based on application of the dependent care disregard, and has remained continuously eligible for grant assistance since that time. Such households shall have the option to use the disregard or state-paid child care;

(ii) Was employed on September 30, 1991, and has not converted to the state-paid, child care system; or

(iii) Is subject to retrospective budgeting and is converting to state-paid child care. When the household incurred child care costs in the corresponding budget month, the department shall allow both state-paid child care and a child care earnings disregard for the month of conversion and the month thereafter.

(2) Within the child care guarantee of this section, the department shall authorize payment for child care to allow:

(a) An AFDC applicant or recipient to participate in:

(i) JOBS orientation or assessment;

(ii) Job search that is part of an approved employability plan under chapter 388-47 WAC; or

(b) An AFDC recipient to participate in:

(i) Work-related barrier removal activities, as approved by the department for participation in employment or activities under chapter 388-47 WAC;

(ii) In an approved education or training or other component activity under chapter 388-47 WAC; or

(iii) Employment, either to accept or maintain.

(c) A family eligible for transitional child care to participate in employment activities.

(3) The department shall take the individual needs of the child into account.

(4) The department shall not guarantee child care for households where any adult in the assistance unit is able and available to care for the children. See "able" as defined under section 020 of this chapter.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-110, filed 11/8/95, effective 12/9/95.]

WAC 388-290-115 JOBS, income assistance, and transitional child care programs—Eligible children and recipients. (1) The department shall authorize necessary child care if the dependent child is:

(a) Included in the same assistance unit as the recipient; or

(b) For transitional child care, meets the requirements of WAC 388-290-170(4); or

(c) Included in the household, but is not in the recipient's assistance unit because the child is receiving SSI benefits or foster care benefits under Title IV-E of the Social Security Act; and

(d) Twelve years of age or younger; or

(e) Physically or mentally (including emotionally) incapable of self-care, as verified by a licensed medical practitioner or licensed or certified psychologist; or

(f) Under court supervision.

(2) The department shall not authorize child care to a recipient not included in the assistance unit when the recipient is:

(a) An undocumented alien;

(b) A recipient of SSI; or

(c) A nonneedy relative.

(3) The department shall authorize JOBS and income assistance child care to employed recipients not included in the assistance unit due to a sanction with children meeting the requirements of subsection (1) of this section.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-115, filed 11/8/95, effective 12/9/95.]

WAC 388-290-120 JOBS, income assistance, and transitional child care program—Payment. (1) The department's payment for child care shall not exceed the seventy-fifth percentile of local market rate for child care. The department shall establish the department limits based on representative samples of local child care providers.

(2) The child care rate limits shall be as published by the department.

(3) The department's payment for child care shall:

(a) Relate to a person's hours of participation under chapter 388-47 WAC or hours of employment; and

(b) Include transportation time between the place of employment or participation site for activity under chapter 388-47 WAC and the child care provider.

(4) The department may authorize child care payments for JOBS or income assistance child care for up to two weeks for a person waiting to enter education or training, or other component activity approved under chapter 388-47 WAC, or employment.

(5) The department may authorize JOBS, income assistance, or transitional child care for a period not to exceed one month when:

(a) Child care arrangements would otherwise be lost; and

(b) The component activity or employment is scheduled to begin within that period.

(6) The department may pay for initial one-time fees for registration or equipment which are required by an authorized child care provider if such fees are:

(a) Required of all parents whose child is in care; and

(b) Needed to maintain a child care arrangement.

(7) The department shall not pay ongoing annual registration fees.

(8) Notwithstanding WAC 388-290-110 (1)(b), the department may establish a protective payee due to mismanagement when the recipient fails to pay the in-home care provider when:

(a) The department has issued a child care warrant to the correct address and twelve or more working days have passed since the issuance date; and

(b) The recipient has not reported the warrant lost, stolen, or destroyed.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-120, filed 11/8/95, effective 12/9/95.]

WAC 388-290-123 JOBS, income assistance, and transitional child care programs—Effective dates. (1) The department shall authorize JOBS and income assistance child care for:

(a) Orientation or assessment, to coincide with participation in orientation or assessment provided the household has applied for assistance;

(b) Employment, to coincide with the start of employment or the date of eligibility for assistance, whichever is later, as long as the recipient reports employment by the eighteenth day of the process month. If the recipient does not report employment timely, the effective date for child care benefits shall be the date of request for child care;

(c) Other approved activities, to coincide with the date of request for child care or the date the activity commenced or was approved, whichever is later.

(2) The department shall authorize transitional child care for eligible families as required under WAC 388-290-155(3).

(3) The department shall provide timely notice to recipients for changes in payment when the change results in a discontinuation, suspension, reduction, termination, or forces a change in child care arrangements:

(a) Except, as required under WAC 388-290-120 (4) and (5), the department shall terminate child care benefits to coincide with the termination of a component activity or assistance, provided timely notice for the change in child care has been given; and

(b) Timely notice requirements shall not apply for other changes in the manner of payment.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-123, filed 11/8/95, effective 12/9/95.]

WAC 388-290-130 Income assistance and transitional child care programs—Effect on eligibility and payments. (1) Except as provided under chapter 388-218 WAC, WAC 388-290-110 (1)(c), and subsections (2) and (3) of this section, the department shall determine AFDC eligibility and payment amounts without the dependent care disregard for households subject to the income assistance child care program.

(2) The department shall determine payment amounts with the dependent care disregard for households receiving both state-paid child care and the earnings disregard for the month of conversion and the month thereafter.

(3) When eligible, an employed applicant's eligibility for income assistance child care starts with the first day of AFDC eligibility.

(4) The department shall not consider the child care benefits provided under this chapter as income or resources when determining AFDC, food stamp program eligibility, or payment amount. The department shall treat income received as a child care provider according to the requirements under chapters 388-49 and 388-218 WAC.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-130, filed 11/8/95, effective 12/9/95.]

WAC 388-290-135 JOBS, income assistance, and transitional child care—Hearings. (1) Applicants or recipients shall be entitled to fair hearings under chapter 388-08 WAC on any action affecting child care benefits except for changes resulting from a change in policy or law.

(2) Recipients of JOBS and income assistance child care payments shall not be eligible for continued child care benefits pending the outcome of a fair hearing.

(3) Recipients of transitional child care benefits are eligible for continued benefits pending the outcome of a fair hearing. Continued benefits may not extend beyond the family's twelve-month eligibility period.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-135, filed 11/8/95, effective 12/9/95.]

WAC 388-290-140 Income assistance child care program—Conversion. (1) The department shall convert

or subject households to the state-paid income assistance child care program as follows:

(a) At application. The department shall consider a reapplication following a break in assistance of one month or more as an application;

(b) For existing cases starting employment after October 1, 1991, when employment starts; and

(c) For existing cases that are employed on October 1, 1991, at the next eligibility review or the month thereafter, or upon the recipient's request, if earlier.

(2) Recipients that cease to be eligible for assistance at conversion because of the loss of the child care earnings disregard shall receive transitional benefits, if otherwise eligible.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-140, filed 11/8/95, effective 12/9/95.]

WAC 388-290-155 Transitional child care—Purpose and initial eligibility. (1) The department shall:

(a) Guarantee transitional child care to families who become ineligible for AFDC as described under subsection (2) of this section; and

(b) Permit such AFDC-ineligible families to accept or retain employment.

(2) A family shall be eligible for transitional child care provided the family:

(a) Is ineligible for AFDC due solely or in part because of increased hours of, or increased income from, employment or the loss of income disregards due to time limitations;

(b) Received AFDC in three or more of the six months immediately preceding the first month of ineligibility; and

(c) Requested orally or in writing transitional child care benefits and provides the information necessary for determining eligibility and fees.

(3) A family's eligibility for transitional child care shall:

(a) Begin with the first month the AFDC family is ineligible for AFDC for reasons described under subsection (2) of this section; and

(b) Continue for a period of twelve consecutive months.

(4) Families may begin receiving child care in any month during the twelve-month eligibility period. The department shall allow retroactive benefits for child care paid by an eligible family during this twelve-month period when the:

(a) Provider meets requirements as described under WAC 388-290-110(1); and

(b) Family requests benefits during the twelve-month period.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-155, filed 11/8/95, effective 12/9/95.]

WAC 388-290-160 Transitional child care—Co-payment. (1) The caretaker relative shall contribute to the transitional child care cost based on the family's ability to pay according to a sliding scale based on the AFDC need standard as described under chapter 388-250 WAC.

(a) Families with gross income, at or below one hundred percent of the needs standard, shall contribute five dollars per month toward the transitional child care cost.

(b) Families with gross income exceeding one hundred percent of the needs standard shall contribute toward the transitional child care cost at the rate of twenty-five percent of the income exceeding one hundred percent of the needs standard, but not less than five dollars per month.

(c) In computing the effects of income on transitional child care co-payment levels, the department shall apply AFDC rules as described under chapter 388-218 WAC.

(d) The department shall calculate co-payments for the transitional child care total cost without regard to the number of children receiving care.

(2) The department shall calculate co-payments:

(a) At the time of the initial eligibility determination;

(b) When monthly income decreases; and/or

(c) When household size increases.

(3) A person failing to pay the required co-payment shall be subject to termination as required under WAC 388-290-170 (1)(c).

(4) A family shall pay the co-payment for transitional child care directly to the child care provider.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-160, filed 11/8/95, effective 12/9/95.]

WAC 388-290-170 Transitional child care—Ongoing eligibility. (1) A family's eligibility for transitional child care ceases to exist for a remaining portion of the twelve-month period when the caretaker relative:

(a) Terminates employment without good cause. Good cause for failure to retain employment includes, but is not limited to:

(i) Physical, mental, or emotional inability to perform the required activity;

(ii) Court-ordered appearance or temporary incarceration;

(iii) Family or individual emergency or crises;

(iv) Breakdown in transportation arrangements, with no readily accessible alternate transportation;

(v) Inclement weather preventing a person and others similarly situated from traveling to, or participating in, the prescribed employment;

(vi) The nature of the employment is hazardous to the person;

(vii) The employment wages do not meet minimum wage standards or are not customary for the work in the community;

(viii) The employment was obtained due to a vacancy caused by a labor dispute;

(ix) Refusal to accept major medical treatment needed to continue employment, for example, major surgery;

(x) Refusal to continue employment when the wages, less mandatory payroll deductions and necessary work-related expenses, do not equal or exceed the family's AFDC cash benefit;

(xi) Illness or incapacity of another household member requiring the caretaker relative's care; or

(xii) Child care problems and/or loss of a child care provider.

(b) Fails to cooperate with the department in establishing and enforcing child support obligations;

(c) Fails to pay required co-payment fees; or

(d) Child is no longer dependent, except for deprivation by unemployment.

(2) The department shall only reinstate a family's eligibility for child care when:

(a) The caretaker relative loses a job with good cause and finds another job. The department may qualify the family for the remaining portion of the twelve-month eligibility period; or

(b) Back co-payment fees are paid or satisfactory arrangements are made to make full payments.

(3) Siblings of children eligible for transitional child care, if needy and otherwise eligible, who enter or return to a household, shall be eligible to receive transitional child care benefits.

(4) The department shall not consider transitional child care benefits as income or resources when determining AFDC or food stamp program eligibility or payment amount. The department shall treat income received as a child care provider according to chapters 388-49 and 388-218 WAC.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-170, filed 11/8/95, effective 12/9/95.]

WAC 388-290-180 Child care overpayments. (1) In those areas not expressly covered under this section, recipients of JOBS, income assistance, and/or transitional child care benefits shall be subject to and covered by chapter 388-270 WAC.

(2) The department shall include, but not limit, a child care overpayment to:

(a) Vendor payments for child care provided during a period when a child was not eligible for public assistance;

(b) Payments made pending a fair hearing when the fair hearing decision subsequently finds against the client;

(c) Payments made during the ten-day advance notice period when the client is ineligible for payment; and

(d) Continued payments received by the recipient because the appropriate ten-day advance period extends into the next month.

(3) The department shall calculate the amount of the child care overpayment based on the amount of child care payment the client or the child care provider receives for which the assistance unit was not entitled.

(4) When establishing an overpayment, the department shall reduce any child care overpayment by the amount of any child care underpayment where applicable.

(5) The department shall recover overpayments from:

(a) The assistance unit which was overpaid;

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(c) Any member of the overpaid assistance unit whether or not currently a recipient.

(6) When a provider has claimed payment for child care services not provided, the department shall establish the overpayment in the provider's name.

(7) The department shall attempt recovery of an overpayment in all cases:

(a) Of fraud;

(b) Involving current recipients of child care benefits; and

(c) Where cost of recovery does not exceed the overpayment amount.

(8) In recovering overpayments from a family currently receiving child care benefits, the department shall consider a family's income level and financial obligations, including household expenses, when determining repayment requirements. Such families shall retain a reasonable amount of funds to meet the needs of the assistance unit.

(9) The department may only make recovery of child care overpayments from current Title IV-A child care recipients from child care benefits. Recovery may not interfere with child care arrangements.

(10) The department may make any recoveries of child care overpayments from AFDC benefit payments only on a voluntary request from a family receiving AFDC benefits.

(11) The department shall recover overpayments from families no longer receiving child care payments as required under WAC 388-270-1150.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-180, filed 11/8/95, effective 12/9/95.]

WAC 388-290-210 Other supportive services. The department and the JOBS contractor may provide other supportive services payment or reimbursement for other supportive services expenses enabling a person to participate in the JOBS program.

(1) The department shall subject the expenditures for a participant's supportive services to the maximum limits as indicated in the state's supportive services plan.

(2) The department shall ensure supportive services are as outlined in the JOBS supportive services state plan and include, but are not limited to:

(a) Transportation costs;

(b) Tools and equipment;

(c) License fees, including union initiation fees and licenses required by law, employer, or union for participation in JOBS or employment; and

(d) One-time work-related expenses necessary for a participant to accept or maintain employment. The department shall only allow these expenses when:

(i) The participant has a bona fide job expected to last thirty days or more;

(ii) Other funds are not available; and

(iii) Such expenses are required for the type of work.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-210, filed 11/8/95, effective 12/9/95.]

WAC 388-290-250 Transitional supportive services. The department or the contractor may provide transitional supportive services, as outlined in the JOBS supportive services state plan, to a JOBS participant who loses eligibility for AFDC.

(1) Services provided within thirty days following AFDC termination include, but are not limited to transportation, one-time work-related expenses, and social services; and

(2) Counseling services for job retention may be provided for up to ninety days following AFDC termination.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-250, filed 11/8/95, effective 12/9/95.]

WAC 388-290-260 Supportive services overpayments. (1) In those areas not expressly covered by this section, it is the intent of the department that recipients of JOBS and/or transitional supportive services benefits shall be subject to and covered by chapter 388-270 WAC.

(2) "Supportive services overpayment" means any supportive service payment received by or for an assistance unit or JOBS participant that exceeds the amount the unit was eligible to receive.

(3) The department shall determine the amount of the supportive services overpayment is the amount of payment received by the assistance unit or vendor for which the assistance unit was not entitled.

(4) For current recipients of supportive services benefits, the department may only make recovery of support services overpayments from support services benefits. The department may only make a recovery of an overpayment from AFDC benefit payments upon voluntary request from a family receiving AFDC benefits.

(5) Recovery of overpayments from families no longer receiving supportive services payments, follow WAC 388-270-1150.

[Statutory Authority: RCW 74.04.050 and 45 CFR 255.4(f). 95-23-028 (Order 3916), § 388-290-260, filed 11/8/95, effective 12/9/95.]

Chapter 388-300 WAC
JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM
(Formerly chapter 388-47 WAC)

WAC

WAC 388-300-0100 Job opportunities and basic skills training (JOBS) program—Authority and purpose. (1) The JOBS program is established under P.L. 100-485, as amended, 102 Stat. 2343. The short title is the Family Support Act of 1988. Federal regulations for the JOBS program are described under 45 CFR, part 250, part 251, part 255, and part 256. The state statutory authority is Title 74 RCW.

(2) The department shall be by the authority of Title 74 RCW the Title IV-A and Title IV-F agency, and shall have the authority to carry out the JOBS program.

(3) The JOBS program shall provide a recipient of aid to families with dependent children (AFDC) the opportunity to obtain appropriate education, training, skills, and supportive services, including child care, consistent with the needs of the recipient, that will help the recipient enter or reenter gainful employment, thereby avoiding long-term welfare dependence and achieving economic self-sufficiency.

(4) The department shall ensure the JOBS program is directed at increasing labor force participation and household earnings of AFDC recipients.

(5) The department shall communicate to a program participant the concepts of the importance of work and how performance and effort directly affect:

(a) Future career and educational opportunities and economic well-being; and

(b) Personal empowerment, self-motivation, and self-esteem.

(6) The department shall ensure that:

(a) Work experience is the most important component of the JOBS program; and

(b) Education is an important program element and tool for an individual to achieve full independence including:

(i) Literacy training;

(ii) Secondary education;

(iii) High school equivalency;

(iv) Vocational training; and

(v) Post-secondary education.

(7) The department shall provide as specified in 45 CFR, part 250 JOBS program services in accordance with the Washington state plan - JOBS (Title IV-F) and JOBS supportive services and child care in accordance Washington state plan - supportive services (Title IV-A/F).

(8) The department may contract specific program operation functions to other entities.

(9) The department shall contract with service providers in a manner that ensures the state continues to receive enhanced federal funding by meeting the:

(a) Expenditure rate for target group members;

(b) Federal participation rate for nonexempt AFDC-E households in the components specified in WAC 388-300-2100; and

(c) Federal participation rate for JOBS participants.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-0100, filed 9/18/95, effective 10/19/95.]

WAC 388-300-0200 Definitions. Except as otherwise specified, the terms used in this chapter, 388-300 WAC, shall have the same meaning as applied to the AFDC program, and terms defined under chapter 388-22 WAC and 45 CFR, part 250, part 251, part 255, and part 256.

(1) "Basic education" means an activity below the post-secondary level which includes:

(a) High school education or education designed to prepare a person to qualify for a general educational development (GED) certificate;

(b) Basic and remedial education providing a person with a basic literacy level; and

(c) Education in English as a second language (ESL) proficiency which enables a participant to understand, speak, read, or write the English language to allow employment commensurate with the participant's employment goal.

(2) "Basic literacy level" means a minimum literacy level allowing a person to function at a level equivalent to grade 8.9.

(3) "Component" means the JOBS program activities and services available under WAC 388-300-1100 and 388-300-2200 through 388-300-3100.

(4) "Component costs" means educational or training-related costs such as tuition, books, supplies, or fees paid to or required by an educational or training institution. "Component costs" include reimbursement paid to an employer who is providing on-the-job training.

(5) "Department" means the department of social and health services.

(6) "Employability assessment" means the process by which the person's barriers to employment are identified and information gathered about the person's individual and family circumstances which may affect the person's ability to find and retain employment.

(7) "Employability plan" means a written plan for achieving the employability of a JOBS participant developed jointly by the participant and the service provider. The plan includes:

(a) The employment and training activities in which the person will be participating to become employable;

(b) Supportive services to be provided to the person which are necessary for the person to participate in the activity; and

(c) The person's need for child care during participation in the activities.

(8) "Employability planning" means the process, starting with the assessment, which has an employability plan as the desired outcome.

(9) "Employment partnership program (EPP)" means the work supplementation program as described under chapter 74.25A RCW.

(10) "Employment partnership council (EPC)" means the local council appointed by the county legislative authority in EPP sites as authorized under chapter 74.25A RCW.

(11) "GED" means general educational development.

(12) "JOBS Automated System" means the automated electronic data collection system used to identify the components or employment in which a JOBS participant is or has been participating.

(13) "JOBS eligible" means the person is an applicant for or recipient of AFDC.

(14) "One-time work-related expense" means payments for expenses needed by an applicant or recipient of AFDC to enter or maintain employment on a per-job-basis as provided for in the Washington state plan - supportive service plan (Title IV-A/F).

(15) "Participant" means an applicant for or recipient of AFDC engaged in JOBS program activities. Participation in JOBS begins with the assessment.

(16) "Satisfactory progress" means a participant in secondary or post-secondary education or job skills training:

(a) Has achieved and is maintaining a grade point average sufficient to graduate; and

(b) Is taking sufficient credit hours in required coursework to graduate from the course of study within the time frame established for the course by the institution unless:

(i) The education or training activity is coupled with another JOBS approved activity;

(ii) A particular required class is not available in the time frame; or

(iii) There are mitigating circumstances as determined by the department or the service provider which make fewer hours of class time reasonable for a participant.

(17) "Service provider" means either the department or another entity under contract or interagency agreement with the department to provide JOBS services.

(18) "Supportive services" means services as specified and to the limits in the Washington state plan - supportive services (Title IV-A/F) provided to JOBS participants. Supportive services do not include child care, and supportive services do include:

(a) Child care registration fee;
(b) Transportation reimbursement;
(c) Car repair;
(d) Clothing;
(e) Medical examinations or services;
(f) Licenses or fees;
(g) Meals and short-term lodging;
(h) Testing;
(i) Supportive counseling, education, and training;
(j) Haircuts;
(k) Relocation expenses;
(l) Tools and equipment;
(m) Work-related clothing and uniforms; and
(n) Union initiation fees.

(19) "Target group member" means:

(a) An AFDC applicant or recipient who received AFDC for thirty-six or more of the preceding sixty months;

(b) A custodial parent under twenty-four years of age who did not complete high school and is not enrolled in high school or a high school equivalent at the time of the family's application for AFDC;

(c) A custodial parent under twenty-four years of age having less than six months of employment in the last year; or

(d) A member of a family where the youngest child is within two years of ineligibility for AFDC because of age.

(20) "Work maturity" means an understanding of workplace expectations and the ability to conform to these expectations.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-0200, filed 9/18/95, effective 10/19/95.]

WAC 388-300-0300 Providing program information and opportunity to participate. (1) The department shall provide applicants for and recipients of AFDC with the following information at application or, as appropriate, at redetermination:

(a) Specific information about the JOBS program; and

(b) Instruction on how to enter the program.

(2) The department shall provide information orally and in writing. In all cases the department shall provide the information in a manner designed to be understood by the applicant or recipient.

(3) The department shall ensure that information provided under subsection (1) of this section includes:

(a) The department's obligation to provide services to JOBS participants;

(b) A description of who is exempt from mandatory JOBS participation;

(c) The availability of JOBS program activities, child care, and supportive services for which a person may be eligible while participating in JOBS, including:

(i) Employment, training, and education services;

(ii) Supportive services, including but not limited to transportation reimbursement;

(iii) Child care services, including but not limited to available child care programs and information about how to select, obtain, and access assistance to obtain appropriate child care;

(iv) Transitional child care benefits; and

(v) Medical extension benefits.

(d) A clear description of how to enter the JOBS program.

(4) The department shall ensure that information provided under subsection (1) of this section includes the rights, responsibilities, and obligations of JOBS participants including, but not limited to:

(a) Consequences of refusing or failing to participate, including the effect on volunteers;

(b) The requirement of both parents in an AFDC-E household to participate in JOBS if the department guarantees child care; and

(c) The requirement that the second parent in an AFDC-E family participate in JOBS if the qualifying parent fails or refuses to participate as required without good cause.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-0300, filed 9/18/95, effective 10/19/95.]

WAC 388-300-0400 Participation exemptions. (1) The department shall determine a person's exemption status for JOBS at application, redetermination, and at any change of circumstance of the AFDC case.

(2) A recipient shall be exempt from required JOBS participation if the person is:

(a) Fifteen years of age or younger;

(b) A dependent child as defined under chapter 388-215 WAC attending full-time an elementary, secondary, vocational, or technical school;

(c) Sixty years of age or older:

(d) Ill, when the department determines on the basis of medical evidence or other sound basis that the illness or injury is serious enough to temporarily prevent entry into employment, education, or training;

(e) Incapacitated, when verified by the department that a physical or mental impairment, determined by a physician or licensed or certified psychologist, prevents the person from engaging in employment or training under JOBS. Incapacitation may include a period of recuperation after childbirth if prescribed by a physician;

(f) Residing in a remote location requiring two hours or more round-trip travel time from a JOBS program or activity site when the person uses reasonably available public or private transportation. When normal round-trip commuting time in the area is two hours or more, the department shall not consider the person to be residing in a remote location except when the person's round-trip commuting time exceeds the accepted community standards. Travel time is exclusive of time necessary to transport a child to and from a child care facility.

(g) Needed in the home to care for another ill or incapacitated household member, as determined by a physician or a licensed or certified psychologist, and no other appropriate member of the household is available to provide the needed care;

(h) Working thirty or more hours a week;

(i) Pregnant, and it has been medically verified that the child is expected to be born in the month in which participation would be required or within the following six-month period;

(j) The parent or other caretaker relative of a child less than three years of age and personally providing care for the child. The department shall require a custodial parent nineteen years of age or younger who has not completed high school or GED to participate in basic educational activities regardless of the age of the youngest child. The department shall exempt only one parent or other caretaker relative under this provision;

(k) The parent or other caretaker relative personally providing care for a child less than six years of age, unless the department assures: child care is guaranteed and that the person is not required to participate in JOBS more than twenty hours per week. The department shall exempt only one parent or other caretaker relative under this provision;

(l) A full-time volunteer serving under the Volunteers in Service to America (VISTA), under Title I of the Domestic Volunteer Service Act of 1973; or

(m) Serving a court-ordered electronic home detention sentence.

(3) The department shall:

(a) Re-evaluate the exemption status of a recipient when a condition specified in subsection (2) of this section is expected to end, but not less frequently than at the redetermination of AFDC eligibility; and

(b) Notify the recipient and appropriate service providers of a change in the recipient's exemption status within ten working days.

(4) The department shall consider an applicant or recipient of AFDC claiming exemption status from JOBS participation requirements exempt until the department determines the status of such person.

(5) A recipient of AFDC shall not be required to participate in the JOBS program until notified of the need to do so by:

(a) The department; or

(b) The tribal entity operating a tribal JOBS program.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-0400, filed 9/18/95, effective 10/19/95.]

WAC 388-300-0500 Required participation. (1) The department shall ensure that before a nonexempt AFDC recipient is required to further participate in JOBS components the service provider has:

(a) Conducted an assessment of the person's employability; and

(b) Developed an employability plan for the person.

(2) The department may require a nonexempt AFDC recipient to participate in JOBS components and activities.

(3) A nonexempt AFDC recipient who is required to participate and who fails or refuses to participate in JOBS without good cause shall be subject to a sanction under WAC 388-300-3400.

(4) The department shall not require a nonexempt AFDC recipient to participate in JOBS unless the department guarantees child care under chapter 388-51 WAC and under the limitations set forth in WAC 388-300-0400(k) for a dependent child in the household who is:

(a) Twelve years of age or younger; or

(b) Thirteen years of age or older with special needs.

(5) The department may require both parents in an AFDC-E household to participate in JOBS if the department guarantees child care.

(6) The department may only require an AFDC recipient to participate in JOBS when funding is available to provide the supportive services needed by the person to participate in the required activities.

(7) The department shall sanction a nonexempt recipient who volunteers to participate in JOBS if the person fails or refuses to participate in approved employability plan components or activities. The department shall not subject volunteers for the work supplementation program, as described under WAC 388-300-2900, to a sanction for refusing or failing to participate in that activity.

(8) The department shall not impose a sanction under subsection (7) of this section until:

(a) A good cause determination is made under WAC 388-300-3200; and

(b) When appropriate, conciliation services under WAC 388-300-3300 have been offered.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-0500, filed 9/18/95, effective 10/19/95.]

WAC 388-300-0600 Referral to pathways. (1) The department shall refer nonexempt AFDC applicants or recipients or exempt volunteers to specific service providers for JOBS program or other services at the time of AFDC eligibility determination or redetermination.

(2) The department shall refer one and may refer both nonexempt parents in a household applying for AFDC-E to the re-employment pathway described in WAC 388-300-0700 if the parent is:

(a) Twenty-four years of age or younger and has completed high school or GED; or

(b) Twenty-five years of age or older.

(3) The department shall refer nonexempt AFDC-R applicants to the re-employment pathway described in WAC 388-300-0700 if:

(a) The parent's most recent job in the last twelve months paid at least six dollars and fifty cents an hour; and

(b) The parent is:

(i) Eighteen years of age or older and has completed high school or GED; or

(ii) Twenty-four years of age or older.

(4) The department shall refer the following nonexempt AFDC applicants, recipients, or dependent children to the young person education pathway described in WAC 388-300-0800:

(a) Twenty-three years of age or younger nonexempt AFDC-R applicants or recipients who have not completed high school or GED;

(b) Twenty-four years of age or younger nonexempt AFDC-E applicants or recipients who have not completed high school or GED;

(c) Dependent children in an AFDC household who are:

(i) Over sixteen and under nineteen years of age; and

(ii) Not attending high school.

(5) The department shall refer any AFDC household member who appears to be disabled under WAC 388-511-1105 to the disability advocacy pathway as described under WAC 388-300-1000.

(6) The department shall refer nonexempt AFDC applicants or recipients not meeting the criteria in subsections (2), (3), and (4) of this section to the employment investment pathway described in WAC 388-300-0900.

(7) The department shall ensure that all referred persons have the opportunity to begin the assessment and employability plan development process at the person's first contact with the pathway service provider.

(8) A service provider may refer a participant to other pathway service providers when an assessment indicates an inappropriate assignment based on factors including, but not limited to, the participant's educational, physical, mental or occupational skill level, or the local labor market.

(9) The department shall inform persons of their right to complaint or grievance under WAC 388-300-3500 regarding pathway assignment at the time of such assignment.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-0600, filed 9/18/95, effective 10/19/95.]

WAC 388-300-0700 Re-employment pathway. (1) The department shall ensure the re-employment pathway provides focused employment services to recipients who:

(a) Already possess job skills; or

(b) Are most likely to be re-employed with minimal services.

(2) The service provider shall ensure that persons in the re-employment pathway are provided with:

(a) An assessment of the person's employability as described in WAC 388-300-1100 and employability plan development under WAC 388-300-1200; and

(b) Supportive services in the pathway activities before assigning the person to a component.

(3) The service provider shall immediately refer the person to the employment investment pathway as described under WAC 388-300-0900 when the service provider determines under the assessment described under WAC 388-300-1100 that the person is not competitive in the local labor market.

(4) The service provider shall, within available funds, provide the following services to persons in the re-employment pathway:

(a) Job readiness training under WAC 388-300-2300;

(b) Job search assistance under WAC 388-300-2400; and

(c) ESL in conjunction with activities specified in subsections (a) and (b) of this section.

(5) The service provider shall refer participants who need child care services to the department.

(6) The service provider shall:

(a) Monitor the participant's activity to ensure that the pathway services continue to meet the employability needs of the participant; and

(b) Refer a participant to a service provider in another pathway when:

(i) An assessment of the participant's progress in obtaining employment indicates another JOBS activity is more appropriate; or

(ii) Not more than four months have elapsed.

(7) The department shall sanction under WAC 388-300-3400 those nonexempt participants who fail or refuse to participate in pathway activities in accordance with the person's employability plan developed under WAC 388-300-1200.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-0700, filed 9/18/95, effective 10/19/95.]

WAC 388-300-0800 Young person education pathway. (1) The young person education pathway shall provide specialized services including parenting classes, and family planning education and services, to persons referred under WAC 388-300-0600.

(2) The department shall ensure that an AFDC custodial parent in the young person education pathway is provided with an assessment of:

(a) The person's living arrangement, as described in WAC 388-265-1275, if the person is an unmarried pregnant or parenting minor seventeen years of age or younger;

(b) Family issues which may affect the person's employability, including the needs of the participant's children; and

(c) The participant's knowledge of and need for family planning, and referral to appropriate resources.

(3) The service provider shall provide JOBS participants with:

(a) An assessment under WAC 388-300-1100; and

(b) Employability plan development under WAC 388-300-1200.

(4) The service provider shall ensure the JOBS components available under WAC 388-300-2200 are provided to persons in the young person education pathway within the age and program limits specified in that section.

(5) The department may require a nonexempt AFDC custodial parent in the young person education pathway to participate in the JOBS educational activities set forth in the person's employability plan.

(6) The department may require a dependent child in an AFDC household who is sixteen or seventeen years of age to participate in high school completion or GED.

(7) The service provider shall monitor the participant's activity to ensure that pathway services continue to meet the participant's employability needs.

(8) The service provider shall ensure that a person participating in a JOBS component in the young person education pathway is provided with supportive services as required for the person to participate in the activities.

(9) The service provider shall refer the participant to the department for child care services as required for the person to participate in the pathway activities.

(10) The service provider shall refer persons in the pathway to the employment investment pathway service provider when:

(a) The person completes high school or GED; or

(b) An assessment of the person's progress in the activities indicates that another JOBS activity or other activity is more appropriate.

(11) The department shall sanction under WAC 388-300-3400 nonexempt AFDC recipients, including nonexempt custodial parents nineteen years of age or younger who:

(a) Have been required to participate in basic education activities under WAC 388-300-2200(5); and

(b) Fail or refuse to participate in pathway activities in accordance with the person's employability plan under WAC 388-300-1200.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-0800, filed 9/18/95, effective 10/19/95.]

WAC 388-300-0900 Employment investment pathway. (1) The employment investment pathway shall provide a participant with job search, job readiness, job skills training, or basic or post-secondary educational services, or work-related activities to assist the person to find and retain employment.

(2) The service provider shall ensure a participant in the employment investment pathway is provided:

(a) An assessment of the person's employability as described in WAC 388-300-1100; and

(b) Employability plan development as described in WAC 388-300-1200.

(3) The service provider shall ensure the following JOBS services are provided to persons in the employment investment pathway within available funds:

(a) JOBS component activities described in WAC 388-300-2200 through WAC 388-300-3100 to the extent that participants meet the criteria for such components and funds are available; and

(b) Supportive services as required for the person to participate in the pathway activities.

(4) The service provider shall refer the participant to the department for child care services as required for the person to participate in the pathway activities.

(5) The service provider shall monitor the participant's JOBS activity to ensure the pathway services continue to meet the participant's employability needs.

(6) The department shall sanction under WAC 388-300-3400 a nonexempt participant who fails or refuses to participate in pathway activities in accordance with the person's employability plan developed under WAC 388-300-1200.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-0900, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1000 Disability advocacy pathway. (1) The disability advocacy pathway service provider shall:

(a) Offer facilitation services to maximize income levels available to families with disabled family members; and

(b) Assist these family members to receive services for which they are eligible from the most appropriate state or federal program.

(2) The department shall ensure a person in the disability advocacy pathway is provided with:

(a) An evaluation of the severity and potential duration of the person's potentially disabling condition using WAC 388-511-1105;

(b) Referral to division of vocational rehabilitation, as appropriate; and

(c) As appropriate, assistance to a person filing application for:

(i) Old age and survivor's disability insurance;

(ii) Supplemental security income; and

(iii) Medicaid; or

(iv) An appeal to an adverse decision made by the Social Security Administration regarding the person's eligibility for such benefits as provided under Titles II, XVI, and XIX of the Social Security Act.

(3) The department shall not require a person to apply for federal services or benefits to replace receipt of AFDC benefits for the person or the person's child.

(4) The department may refer a person in the disability advocacy pathway to another pathway or another type of service when an assessment indicates another service is more appropriate or will more effectively meet the person's needs.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1000, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1100 Employability assessment. (1) The service provider and the participant shall jointly complete an assessment of the participant's employability before the person's participation in a JOBS component.

(2) The service provider must provide the person with an assessment prior to the person beginning any JOBS activity including initial job search.

(3) The service provider shall ensure the person has the opportunity to begin the assessment process within ten working days of the date the person was referred to the service provider.

(4) The service provider shall assess the participant's employability based on the person's:

(a) Literacy level and English language proficiency;

(b) Educational level and school experiences;

(c) Age;

(d) Occupational skills;

(e) Work maturity skills;

(f) Job finding skills;

(g) Skills deficiencies;

(h) Work history;

(i) Occupational aptitudes and employment goal preference;

(j) Mental or physical limitations;

(k) JOBS supportive service needs including transportation reimbursement;

(l) Needs for child care;

(m) Local labor market in terms of currently available and future employment opportunities; and

(n) Other factors which the department determines to be relevant to the employability of the participant.

(5) The service provider shall ensure the employability assessment includes a review of the family circumstances including the needs of the participant's children.

(6) The service provider:

(a) Shall conduct the assessment through face-to-face interviews, which are preferable, telephone conversations, or other forms of direct communication; and

(b) May use various methods including testing and self-assessment instruments.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1100, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1200 Employability plan. (1) The service provider and the participant shall jointly develop an employability plan based on the assessment described in WAC 388-300-1100.

(2) The service provider shall ensure the elements identified in the assessment under WAC 388-300-1100 (4) and (5) are considered when developing an employability plan with the participant.

(3) The service provider shall take into consideration the following elements when developing an employability plan with and for the participant:

(a) Preferences of the participant to the extent possible given the goals and constraints of the department, including program resources, available services, and local employment opportunities;

(b) Available JOBS program resources; and

(c) The federal requirements for participation rate, target group expenditure rate, and unemployed parent program participation rate to ensure the continuation of enhanced federal matching rates for state funds.

(4) The service provider shall ensure that the employability plan contains an employment goal which has been developed in consultation with the participant.

(5) The service provider shall have employment goal approval authority within the following guidelines:

(a) The employment in the occupation is available in the participant's local labor market; and

(b) The employment goal provides the participant with wages which lead to the person's family becoming self-supporting; and

(c) The participant does not have competitive skills in an occupation different than the proposed employment goal at a wage at or above the AFDC needs standard as specified in chapter 388-250 WAC; and

(d) The participant has competitive skills only in an occupation which is seasonal in nature and provides annual wages below the AFDC needs standard as specified in chapter 388-250 WAC; and

(e) The participant requires twenty-four months or less to complete a job skills training program at a technical college or employment certification program at a community college as specified under WAC 388-300-2500 in order to be competitive in the local labor market in the occupation; or

(f) The participant requires ninety quarter credit hours or sixty semester credit hours or less to complete an associate degree or a baccalaureate degree excluding prerequisite courses at an institution as specified under WAC 388-300-2600 to be competitive in the labor market in the occupation.

(6) The service provider shall consult with the department when the employment goal may be appropriate but does not meet the guidelines in subsection (5) of this section.

(7) The service provider shall inform the participant of the participant's right to discuss the employment goal or component assignment with a representative of the department when the participant and the service provider do not agree on the appropriateness of an employment goal or component assignment offered for approval by either the participant or the service provider.

(8) The department shall have final approval authority for a participant's employment goal and component assignment. The department shall base the approval decision on information obtained through the assessment process under WAC 388-300-1100, information provided on the employability plan as described under WAC 388-300-1200, and may gather additional information from the participant and the service provider to assist in the decision-making process.

(9) Participants who have been denied approval of an employment goal or component assignment shall have the right to file a grievance, request conciliation or request a fair hearing.

(10) The service provider shall ensure that the employability plan includes:

(a) Labor market information relative to the employment goal;

(b) The component activities to be undertaken by the participant as approved under WAC 388-300-1200.

(c) The supportive services and child care needed by the participant to take part in JOBS;

(d) Any other needs of the family that might be met by JOBS, such as participation of a dependent child in drug education or life skills planning sessions; and

(e) Any job search or other participation requirements placed upon the participant.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1200, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1300 Component approval. (1) The service provider shall approve a component for inclusion on an employability plan before the participant may begin participation in the component.

(2) A participant is not eligible for JOBS funding for component costs, supportive services, or child care for a component unless the service provider has approved the component or the component would meet the approval criteria for inclusion on the person's employability plan.

(3) The service provider shall approve job search for inclusion on a participant's employability plan when the participant would benefit from labor market information, assistance in identifying prospective employers, and other guidance provided in the job search component while conducting a focused job search effort.

(4) The service provider shall approve other components for inclusion on a participant's employability plan when the following criteria have been met:

(a) The participant requires new or additional vocational, occupational, job search, job readiness, or other employment-related skills and abilities in order to find and retain employment in the local labor market at a wage at or above the AFDC needs standard specified in chapter 388-250 WAC; and

(b) The component provides specific occupational skills or abilities needed by the participant to enter or re-enter employment in the participant's approved employment goal; and

(c) The component will enable the participant to become employed in the participant's approved employment goal; and

(d) Objective measurements such as tests or previous academic achievement indicate the participant possesses the aptitude, skills, or abilities to complete the component and work in the occupation; and

(e) Completion of the component does not provide the participant with an associate or bachelor degree or post-graduate degree if the participant already possesses a bachelor degree; and

(f) The component does not:

(i) Include religious worship, exercise, or instruction; or

(ii) Serve to assist, promote, or deter religious activity; and

(g) The participant meets the specific component criteria as listed in WAC 388-300-2200 through WAC 388-300-3100.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1300, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1400 Funding priority criteria. (1) The department shall ensure that JOBS funds are obligated and expended in a manner that maximizes JOBS program federal match rates as specified in 45 CFR 250.73 and 45 CFR 250.74.

(2) The department shall have the authority to adjust funding levels among priority groups in subsection (3) of this section when the department is not meeting the following federal requirements:

(a) Fifty-five percent of all JOBS funds expended on target group members;

(b) Achievement of the required participation rate of nonexempt AFDC recipients in JOBS program components as specified in 45 CFR 250.74; and

(c) Achievement of the required AFDC-E program participation rate in work-related JOBS program components or employment under WAC 388-300-2100 as specified in 45 CFR 250.74.

(3) To achieve the federal requirements specified in subsection (2) of this section, the department shall make JOBS funded services available to eligible AFDC-E and AFDC-R households in the following priority:

(a) All AFDC-E cases;

(b) Exempt and nonexempt target group AFDC-R cases provided that volunteers are given first consideration in determining the priority of participation within target groups;

(c) All other nonexempt cases; and

(d) All other cases or dependents.

(4) The service provider shall approve JOBS component costs, supportive services, or child care already identified on the person's employability plan when the participant has made independent changes in any of the following plan elements to the extent that the service provider approves such changes:

(a) Employment goal;

(b) Course of educational or training activities; or

(c) Component activity.

(5) The department shall ensure that a participant continues to receive funding to support the components and supportive services identified in the participant's employability plan if the participant:

(a) Changes geographic location to the extent that the person's AFDC case management is transferred to a different community service office in Washington state; and

(b) Continues the plan activities without interruption.

(6) The service provider shall allocate its funds in accordance with the priority groups identified in subsection (3) of this section, to the extent funds are available.

(7) The service provider shall fund component costs and supportive services identified on the employability plan, in accordance with the priority groups listed in subsection (3) of this section, when the service provider has approved components.

(8) The service provider shall fund a participant's one-time work-related services without regard to the priority group status of the participant.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1400, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1500 Annual review for continued funding. (1) The service provider shall review all employability plans to determine whether to continue funding the participant's employability plan components after the close of a state fiscal year.

(2) The service provider shall conduct annual reviews before the beginning of the federal fiscal year (October 1).

(3) The service provider shall perform the following tasks at the annual review of each participant:

(a) Determine if the participant is making satisfactory progress or is participating satisfactorily in the most recently assigned component based on the reviews of the participant's progress conducted throughout the previous year;

(b) Approve components for inclusion on the employability plan for the following state fiscal year;

(c) Obligate funds for component costs and supportive services approved for inclusion on the participant's employability plan in accordance with the funding priorities established in WAC 388-300-1400 for those participants who entered the JOBS program on or after the effective date of this chapter; and

(d) Obligate funds for component costs and supportive services to support components approved prior to the effective date of this chapter without regard to the funding priorities established in WAC 388-300-1400 if the participant is:

(i) Making satisfactory progress; or

(ii) Participating satisfactorily in the components identified on the employability plan.

(4) The service provider shall have the authority to establish waiting lists for participants who have been denied component activities because of a lack of available funds for that specific component.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1500, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1600 Component costs and supportive service funding conditions. (1) A JOBS participant shall use other funding sources, such as Pell grants or VISTA stipends, before receiving JOBS funding for post-secondary and job skills training component costs and supportive services costs, as described under chapter 388-51 WAC.

(2) The department shall not require a participant to accept student loans when offered as part of a student financial aid package.

(3) The department shall not authorize funding of components costs for participants participating in self-initiated education or training under WAC 388-300-3000.

(4) A JOBS participant shall be eligible for JOBS funding of component costs, supportive services, and child care for a component when:

(a) The service provider has approved the component for inclusion on the person's employability plan; and

(b) The person has provided the service provider with all information regarding student financial aid or other available resources; and

(c) The person is a member of a priority group for which funding is available; or

(d) Funding for component costs or supportive services were previously denied due to lack of funds, provided that:

(i) Funds subsequently become available; and

(ii) The participant was on a waiting list for funding under WAC 388-300-1700.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1600, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1700 Lack of program funds. (1) The department shall establish waiting lists for referrals to service providers when the service provider has exhausted available pathway funds.

(2) The department shall:

(a) Determine which priority groups will be deferred to waiting lists;

(b) Create referral waiting lists for participants who have been denied access to services due to lack of priority group funds;

(c) Rank participants on the waiting list for the person's priority group according to the date the participant was denied access to program services; and

(d) Issue the participant a written notice that access to services are denied due to lack of funds.

(3) If funds become available during the state fiscal year, the department shall refer the participant to a program service provider according to:

(a) The priority group status of the participant; and

(b) The participant's ranking in the priority group as determined under subsection (2)(c) of this section.

(4) When a service provider has exhausted funds or capacity to deliver services for component costs or supportive services for specific components, the service provider shall:

(a) Inform the department that funds are not available to support an approved component for a specific JOBS participant;

(b) Create funding waiting lists for participants who will be issued written funding denials by the department based on the lack of component funds; and

(c) Place a participant on a waiting list for component funding when funding is not available. The service provider shall rank the participant on the list according to the date the service provider informed the department that funding was not available for that person.

(5) The department shall issue any funding denial notices required due to lack of program funds under subsections (1) or (4) of this section in accordance with WAC 388-300-1900.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1700, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1800 Termination of payments for component costs, supportive services, and child care. (1) The service provider shall terminate payments for component costs or supportive services related to an approved component when so directed by the department.

(2) The department may direct the service provider to terminate component cost or supportive service payments when:

(a) The service provider has notified the department that the participant:

(i) Is not meeting the definition of satisfactory progress in WAC 388-300-0200; or

(ii) Has ceased to participate in the component before completion of the activity;

(b) The department independently determines the conditions in subsection (2)(a) of this section exist.

(3) The department may terminate child care payments when:

(a) The JOBS service provider has notified the department that the participant:

(i) Is not meeting the definition of satisfactory progress in WAC 388-300-0200;

(ii) Has ceased to participate in the component before completion of the activity.

(b) The department independently determines the conditions in subsection (3)(a) of this section exist. However, the department must notify both the JOBS service provider and the child care service provider of such termination at the time the department sends notice to the participant.

(4) The department shall ensure that participants whose component costs and supportive services are terminated under subsection (2) of this section receive advance written notice under WAC 388-300-1900.

(5) Participants shall have the right to appeal decisions made under this section through the department's fair hearing process under WAC 388-300-3600.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1800, filed 9/18/95, effective 10/19/95.]

WAC 388-300-1900 Notice of component decisions or funding decisions. (1) The department shall provide participants with written notification of decisions regarding denial of:

(a) Components considered for inclusion on an employability plan; or

(b) Funding of component costs, supportive services, or child care.

(2) The department shall provide participants with written notification of departmental decisions to terminate previously approved component costs and supportive services.

(3) The department shall ensure denial or termination notices include:

(a) The reason for the decision;

(b) A statement of the legal basis for the action;

(c) A description of the component, component cost, supportive service, or child care which has been denied or which will be terminated;

(d) The amount of funds denied or disallowed for continued payment in the case of terminations; and

(e) The circumstances under which the person is entitled to continued JOBS or AFDC benefits pending the outcome of a fair hearing under WAC 388-300-3600.

(4) The department shall notify participants of a decision to deny components, component costs, supportive services, or child care within ten working days of the denial decision.

(5) The department shall notify participants of the service provider's intention to terminate component costs or supportive services at least ten working days prior to the termination or other action.

(6) The department shall ensure the written notification sent to participants informs the participant of their right to appeal any part of the decision under WAC 388-300-3600.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-1900, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2000 Child care. (1) The department shall guarantee a JOBS participant Title IV-A child care under chapter 388-51 WAC for the period of time the participant is:

(a) Participating in an approved JOBS component or an approvable component under WAC 388-300-1300;

(b) Waiting to enter JOBS or employment and during gaps in participation within the following limitations:

(i) For up to two weeks in normal circumstances; or

(ii) For up to one month if child care would otherwise be lost and the activity is scheduled to begin during the month.

(c) For employment for the period of time available for transitional child care under chapter 388-51 WAC.

(2) The department shall not deny a JOBS participant child care due to the lack of program funds for component costs and supportive services if the person is participating in

an approved component under WAC 388-300-1300 without JOBS program funding.

(3) The department may terminate JOBS child care if approved components are terminated as described under WAC 388-300-1800.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2000, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2100 Unemployed parent program. (1) The department may require one or both parents in an AFDC-E household to participate a minimum of sixteen hours a week in one or a combination of the following JOBS components or employment-related activities:

(a) WEX;

(b) OJT;

(c) Work supplementation;

(d) Unsubsidized employment;

(e) Job search for the first two months of AFDC eligibility; or

(f) Work study assignments which are part of a student financial aid package.

(2) The department may require an AFDC-E parent twenty-four years of age or younger who has not completed high school or equivalent to participate in educational activities as described in WAC 388-300-2200 in lieu of the activities in subsection (1) of this section.

(3) The department shall consider a person making satisfactory progress, as defined in WAC 388-300-0200, in an educational activity provided for in subsection (2) of this section to be meeting the participation requirements for the unemployed parent program.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2100, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2200 Basic educational activities. (1) The department may require specific AFDC recipients who have not completed high school or GED certification to participate in basic educational activities.

(2) The service provider shall ensure that high school, GED certification or other educational activities are included in the employability plan for the following participants:

(a) A custodial parent nineteen years of age or younger who has not completed high school or equivalent;

(b) An AFDC-E parent who has not completed high school or equivalent and is:

(i) Twenty-four years of age or younger; and

(ii) Not participating in at least sixteen hours per week in work activities or unsubsidized employment as described under WAC 388-300-2100; or

(c) Dependent children in an AFDC household who are sixteen or seventeen years of age who have not completed high school or equivalent and are not in high school.

(3) When a participant requests, the service provider shall have the authority to assign a participant to JOBS components other than high school completion or GED certification if the participant is:

(a) An AFDC-R custodial parent twenty to twenty-four years of age who has:

(i) A basic literacy level; and

(ii) An approved employment goal which does not require a high school diploma or GED and has demonstrated a capacity to find and retain employment in that occupation;

(b) An AFDC-R custodial parent eighteen or nineteen years of age who:

(i) Is participating in another JOBS program activity which will lead to the person's earning wages at or above the AFDC need standard as specified in chapter 388-250 WAC; or

(ii) Has been denied admittance to a school or a training institution due to the participant's behavior or the institution's administrative reasons;

(c) An AFDC-R custodial parent or a dependent child sixteen or seventeen years of age when:

(i) An individual assessment, which does not rely solely on grade completion, indicates that the education or GED is not in the best interests of the person or the person's family; and

(ii) The person is participating in another JOBS educational activity or in skills training activities, combined with education.

(4) The department may require nonexempt custodial parents eighteen or nineteen years of age to participate in training or work activities, subject to the twenty-hour limit in WAC 388-300-0400 instead of high school completion or GED certification when:

(a) The parent fails to make satisfactory progress in successfully completing the educational activity; or

(b) Participation in educational activities is inappropriate for the parent based on an educational assessment and the parent's employment goal. The department shall ensure such determinations:

(i) Occur before an education activity assignment; and

(ii) Are based on an employment goal described in the employability plan.

(5) The department may require basic and remedial education for any JOBS participant who:

(a) Has not completed a high school education;

(b) Does not have at least a grade 8.9 basic literacy level; and

(c) Is twenty years of age or older and needs basic literacy services to function at a level which meets the standards of local employers.

(6) The department shall require English proficiency education for a participant who lacks sufficient English language skills to allow employment commensurate with the participant's approved employment goal.

(7) Service providers shall encourage a JOBS participant to participate in educational components as one component in an employability plan when the participant:

(a) Has not completed high school;

(b) Does not demonstrate basic literacy level achievement;

(c) Has an employment goal which requires high school completion or GED; or

(d) Needs remedial or English proficiency education to meet current standards of the local labor market.

(8) The service provider shall require all participants in educational activities to participate full-time, as defined by the educational institution, unless the participant is concurrently engaged in another JOBS component.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2200, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2300 Job readiness activities. (1) The department shall ensure job readiness activities prepare participants for work by assuring that participants:

(a) Are familiar with general workplace expectations; and

(b) Exhibit work behavior and attitudes necessary to compete successfully in the labor market.

(2) Job readiness activities include, but are not limited to:

(a) Life skills training, including, but not limited to, self-esteem building and communication skills training;

(b) Job search techniques, including, but not limited to:

(i) Resume writing skill development;

(ii) Interviewing skills development; and

(iii) Job search skill development related to accessing unadvertised job openings.

(c) Identifying employer expectations; and

(d) Learning how to access and use labor market information for the purpose of identifying which employers are most likely to be hiring employees; and

(e) Job retention skills including, but not limited to:

(i) Conflict resolution;

(ii) Time management; and

(iii) Decision making.

(3) Within available funds, the service provider shall require a participant to participate in job readiness when the participant:

(a) Lacks job search skills;

(b) Does not have recent work history;

(c) Lacks work maturity skills;

(d) Has a history of poor job retention; or

(e) Is a young parent involved in education components.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2300, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2400 Job search program. (1) The department shall ensure the job search program provides a participant with information, job seeking skills training, one-to-one support, and counseling needed by the participant to find and to retain employment.

(2) The department shall ensure the following time limits are applied to job search:

(a) In the initial twelve consecutive months that a family is on assistance, the department shall not require participation in job search for more than sixteen weeks within the following limits:

(i) An initial eight week period which begins on the date of the application for assistance and continues for eight consecutive calendar weeks; and

(ii) An additional eight week period which can begin at any time following the initial eight week period of job search and does not have to be completed during consecutive calendar weeks. "An additional eight week period" means eight weeks of full-time participation or the equivalent. An equivalent to full-time for eight weeks includes twenty hours a week for sixteen weeks, or one day a week for forty weeks.

(b) During subsequent years that a family is on assistance, the person is eligible for job search for eight weeks of full-time participation or the equivalent, as stated in (2)(a)(ii);

(c) The department may require a participant to participate in job search beyond the sixteen week period in the initial year and the eight week period during subsequent years only if job search is performed as part of an educational, training, or employment component. For example, a JOBS participant may be required to conduct a search for unsubsidized employment one day per week while participating in WEX; and

(d) The department shall ensure that if a family becomes ineligible for AFDC, then reapplies, the potential JOBS participant becomes eligible for an additional sixteen weeks of job search, as provided under subsections (2)(a)(i) and (ii) of this section.

(3) Participants in job search activities may engage in activities including, but not limited to:

(a) Applying for job openings listed in newspapers or with public or private agencies;

(b) Interviewing with employers for potential job openings;

(c) Attending classes or workshops designed to provide instruction or assistance with the job application process and resume writing or interviewing with employers;

(d) Meeting with the service provider one-to-one or with a group to develop an effective approach to finding employment; and

(e) Accepting referral to prospective unsubsidized job openings developed for the participant by the service provider.

(4) The service provider may require nonexempt applicants or recipients to participate in job search when it is included on the participant's employability plan developed under WAC 388-300-1200.

(5) The service provider shall establish specific requirements for each participant in job search including, but not limited to:

(a) The number of employer contacts to be made by the participant each week;

(b) The type of employment sought by the participant; and

(c) The frequency of required reporting back to the service provider.

(6) The department shall allow exempt target and nontarget AFDC applicants and recipients to volunteer for job search within available funds.

(7) The service provider may assign a participant in the employment investment pathway to job search when job search services will assist the person enter or re-enter employment and the participant:

(a) Has recent work history; and

(b) Has skills for employment currently available in the participant's local labor market;

(c) Is completing or assigned to job readiness or a work-related component; or

(d) Volunteers to participate in job search.

(8) The service provider shall ensure that the component meets the criteria for approval in WAC 388-300-1300.

(9) The department may require a person to participate or a person may volunteer to participate in initial job search under subsection (2) of this section provided:

(a) An applicant is not required to participate in initial job search as a condition of eligibility for AFDC;

(b) The department does not delay the processing of a person's application for AFDC due to participation in initial job search;

(c) The service provider has conducted an assessment of the participant's employability under WAC 388-300-1100; and

(d) Initial job search may extend beyond the date of eligibility determination.

(10) The service provider may require job search under subsection (2)(c) of this section if it is designed to improve the participant's employment prospects.

(11) The service provider shall terminate job search if an assessment of the person's progress in obtaining employment indicates another JOBS activity is more appropriate.

(12) The service provider shall refer the participant to the employment investment pathway or other services within the pathway if job search is terminated under subsection (11) of this section.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2400, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2500 Jobs skills training. (1) The department shall ensure job skills training provides a participant with specific occupational skills through instruction in a classroom, laboratory, or workshop setting.

(2) The service provider shall approve job skills training for inclusion in a participant's employability plan when:

(a) The participant has an approved employment goal which requires the participant to acquire occupational skills beyond those the person currently possesses provided that such skills could not be achieved through participation in available openings in:

(i) On-the-job training under WAC 388-300-2800; or

(ii) The work experience program under WAC 388-300-2700.

(b) The criteria for approving a JOBS component for inclusion in a participant's employability plan under WAC 388-300-1300 have been met;

(c) Completion of the job skills training would take no more than twenty-four months; and

(d) The participant has fulfilled all entrance requirements set forth by the institution.

(3) The service provider shall ensure that job skills training is available to a parent in an AFDC-E household only when at least one parent in the household is participating a minimum of sixteen hours a week in a component allowed under the unemployed parent program under WAC 388-300-2100.

(4) Institutions providing job skills training must be:

(a) An institution of higher education defined under section 11(a) or section 381 (a), (b), or (c) of the Higher Education Act of 1965, as amended;

(b) A vocational school meeting the provisions of section 435 (b) or (c) of the Higher Education Act, as amended; or

(c) A public institution the state has authorized to provide such a program within the state.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2500, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2600 Post-secondary education. (1) The department shall ensure post-secondary education provides a participant with specific academic instruction and occupational skills through instruction in a classroom setting.

(2) Within available funds, the service provider shall approve post-secondary education for inclusion in a participant's employability plan when the participant:

(a) Has an approved employment goal which requires that the participant acquire occupational skills beyond those which could be achieved through participation in:

(i) Job skills training under WAC 388-300-2500; or

(ii) On-the-job training under WAC 388-300-2800; or

(iii) The work experience program under WAC 388-300-2700.

(b) Meets the criteria for approving a JOBS component for inclusion in an employability plan as set forth in WAC 388-300-1300; and

(c) Is within ninety quarter credit hours or sixty semester hours of completion of the course of study.

(3) The service provider shall ensure that post-secondary education is available to a parent in an AFDC-E household only when at least one parent in the household is participating a minimum of sixteen hours a week in a component allowed under the unemployed parent program as described in WAC 388-300-2100.

(4) The service provider shall only consider component approval when the institution providing the post-secondary education is:

(a) An institution of higher education as defined under section 11(a) or section 481 (a), (b), or (c) of the Higher Education Act of 1965, as amended; or

(b) A public institution the state has authorized to provide such a program within the state.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2600, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2700 Work experience program (WEX). (1) The department shall ensure WEX provides a JOBS participant with:

(a) Instruction in work practices essential to increase work maturity;

(b) The opportunity to exercise skills specific to employment in a supervised employment site with a public or private nonprofit employer;

(c) The opportunity to experience working and learning what the demands of employment are, both on the job and at home; and

(d) The opportunity to conduct job search or participate in job readiness activities while participating in a work activity.

(2) The service provider shall consider WEX for inclusion in a participant's employability plan when the participant:

(a) Is an AFDC-E household member who has been unsuccessful in finding employment during the previous eight or more weeks of job search;

(b) Possesses job skills but needs current work history;

(c) Lacks work maturity; or

(d) Has been unable to retain previous employment for reasons other than labor market conditions.

(3) The service provider shall take into consideration the participant's prior education, training, proficiency, experience, skills, basic literacy, interests, and barriers to employment when determining if WEX is an appropriate assignment for a participant.

(4) The service provider shall ensure:

(a) The component meets the conditions for approval in WAC 388-300-1300;

(b) An AFDC recipient's employment has priority over participation in WEX;

(c) WEX assignments serve a useful public purpose in a public or private nonprofit organization; and

(d) Agencies providing WEX opportunities meet appropriate standards of health, safety, and other reasonable working conditions at the work site.

(5) The department shall ensure that WEX positions:

(a) Meet the conditions of WAC 388-300-3700 regarding displacement of regular employees; and

(b) Are not used to fill vacant, unfilled positions.

(6) The service provider may require a nonexempt AFDC recipient to participate in WEX assignments for up to twenty hours a week based on the participant's work experience needs and available funding;

(7) The service provider shall ensure that participants assigned to WEX are:

(a) Assigned to one WEX assignment for not more than nine months;

(b) Re-assessed following the completion of each WEX assignment;

(c) Covered by industrial insurance as required under Title 51 RCW;

(d) Not required to perform tasks which:

(i) Are in any way related to religious, political, electoral, or partisan activities; or

(ii) Would result in the displacement of a person currently employed as provided under WAC 388-300-3700.

(e) Not required to travel unreasonable distances from home or to remain away from home overnight to participate in the WEX assignment without the participant's consent; and

(f) Not be required to use income or resources to pay WEX participation costs.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2700, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2800 On-the-job training (OJT). (1) The department shall ensure OJT provides a participant with occupational skills through training at a work site.

(2) The service provider shall consider on-the-job training for inclusion in a participant's employability plan when:

(a) The participant lacks skills which are in demand in the local labor market at a wage level that will make the participant's family ineligible for an AFDC grant due to earnings;

(b) The participant has basic skills in an occupation, but requires additional occupational skills beyond those which could be achieved through participation in the work experience program under WAC 388-300-2700;

(c) The criteria for approving a JOBS component for inclusion in an employability plan have been met as set forth in WAC 388-300-1300; and

(d) The participant meets the employer's standards for educational achievement.

(3) The service provider shall ensure:

(a) OJT assignment hours are consistent with the hours in the normal work week for the occupation;

(b) The OJT assignment duration is consistent with the federal Department of Labor Dictionary of Occupational Titles Specific Vocational Preparation occupational guidelines; and

(c) The total amount of the reimbursement paid to the employer does not exceed fifty percent of the total gross wages for regular hours including, as appropriate, gross wages paid to the participant for release time for training.

(4) OJT participants shall be compensated:

(a) At the same rates, including benefits and periodic increases, as similarly situated employees or trainees; and

(b) In accordance with applicable law, but in no event less than the higher of the federal minimum wage or applicable state or local minimum wage.

(5) The department shall provide child care for OJT participants under the income assistance child care program as described in chapter 388-51 WAC.

(6) If an OJT participant becomes ineligible for AFDC due to earned income rules, or in the case of a principal earner in an unemployed parent case due to the one hundred hour rule, such person shall:

(a) Remain a JOBS participant for the duration of the OJT; and

(b) Be eligible for child care and other supportive services as described under chapter 388-51 WAC.

(7) The service provider shall ensure the participant's OJT assignment meets the following conditions:

(a) State or local safety and health standards;

(b) Assignments are not related to political, electoral, religious, or partisan activities;

(c) The employer provides industrial insurance coverage as required under Title 51 RCW; and

(d) The employer provides unemployment compensation coverage for the participant as required under Title 50 RCW.

(8) The department shall require that no work assignment under this program displaces regular employees as specified under WAC 388-300-3700.

(9) The department shall ensure that funds available to carry out the program are not used to assist, promote, or deter union organizing.

(10) When an OJT agreement has been terminated due to the displacement of a regular employee, the JOBS participant's continued employment with the employer shall be at the sole discretion of the person and the employer.

(11) The service provider shall terminate the subsidized employment of JOBS participants if the place of employment or its regular employees are involved in a strike, lockout, or bona fide labor dispute.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2800, filed 9/18/95, effective 10/19/95.]

WAC 388-300-2900 Work supplementation program (WSP). (1) The department shall ensure WSP provides employment opportunities to an otherwise eligible AFDC recipient by using all or part of the person's AFDC grant to subsidize the person's wages for up to nine AFDC payment months.

(2) The department may operate WSP as the employment partnership program (EPP) described in chapter 74.25A RCW with the following provisions:

(a) The department shall contract with local community-based organizations to develop employment positions in EPP; and

(b) Participation in WSP shall be voluntary.

(3) An AFDC recipient shall not be subject to sanction under AFDC rules for refusal to or failure to participate in WSP.

(4) The department shall consider WSP participants to be employed from the date of hire by the employer.

(5) WSP participants are eligible for:

(a) JOBS one-time work-related expenses for the first thirty days of employment in a WSP assignment;

(b) The thirty dollars plus one-third of earned income exclusion from income; and

(c) The work-related expense disregards.

(6) The department shall ensure that the WSP participant is considered an AFDC recipient regardless of the family's receipt of a residual AFDC grant.

(7) The department shall ensure that an AFDC-E qualifying parent participating in WSP is considered to be in a JOBS component rather than in employment for purposes of the one hundred hour rule and therefore is not categorically ineligible for AFDC due to working one hundred or more hours a month.

(8) The department shall ensure that child care payments are available for any eligible children of the participant for the full length of the WSP employment.

(9) An eligible employer shall certify to the service provider or to the local employment partnership council in EPP sites that the employee's employment complies with the following conditions:

(a) Work conditions are reasonable and not in violation of applicable federal, state, or local safety and health standards;

(b) Employment activities are not related to religious, political, electoral, or partisan activities;

(c) The employer provides industrial insurance coverage as required under Title 51 RCW;

(d) The employer provides the participant with unemployment compensation coverage as required under Title 50 RCW; and

(e) Participants hired following the completion of the subsidy period shall be provided benefits equal to those provided to other employees including:

(i) Social security coverage;

(ii) Sick leave;

(iii) The opportunity to join a collective bargaining unit; and

(iv) Medical benefits.

(10) The department shall ensure that no work activity under this program:

(a) Conflicts with WAC 388-300-3700; or

(b) Fills an established, unfilled position vacancy in the work site.

(11) The department shall ensure that funds available to carry out the program are not used to assist, promote, or deter union organizing.

(12) When a work supplementation agreement has been terminated due to displacement of a regular employee, the JOBS participant's continued unsubsidized employment with that employer is at the sole discretion of the person and the employer.

(13) The department shall terminate WSP subsidies to an employer which becomes involved in a strike, lockout, or bona fide labor dispute after the WSP subsidy period begins.

(14) The department shall ensure that work activities under this program have promotional opportunities or reasonable opportunities for an increase in the employee's wage.

(15) The department shall ensure that EPP positions under WSP pay a minimum of five dollars per hour.

(16) Employers who participate in WSP may receive subsidies at a rate of up to fifty percent of the employee's total gross wages.

(17) The department shall determine Medicaid eligibility for a participant who is ineligible for a residual AFDC grant as if the participant were an AFDC recipient.

(18) The department shall determine that a participant who is ineligible for a residual cash grant due only to WSP participation remains eligible for Medicaid benefits.

(19) Under chapter 74.25A RCW, the legislative authority in the county in which EPP is operating shall appoint an Employment Partnership Council (EPC).

(20) Under chapter 74.25A RCW, the EPC shall have responsibility for:

(a) Recruiting and encouraging local employers to create new job opportunities for AFDC recipients through EPP;

(b) Accepting employer's certification of compliance with the conditions set forth in subsection (3) of this section;

(c) Determining if employers have terminated an EPP employee's unsubsidized employment without good cause as required under subsection (20)(b) of this section; and

(d) Recommending to the department that subsidies should be recovered when an employer has terminated an EPP employee for reasons other than good cause.

(21) When an EPP work assignment does not last six months following the EPP subsidization period, the department shall, upon recommendation of the local employment partnership council, recover state supplemented wages from an employer from the beginning of the subsidization period under subsections (22) and (23) of this section.

(22) The local employment partnership council shall recommend to the department that the department recover subsidies paid to the employer during WSP under the following conditions:

(a) The employer terminated before the end of six months of unsubsidized employment, the employment of the worker for whom the employer had previously received wage subsidies; and

(b) The employer did not have good cause for terminating the employment of the employee under subsection (23) of this section.

(23) The employment partnership council may determine that good cause exists for termination of an employee when:

(a) The employee's act or failure to act caused harm to the employer's business; or

(b) The employee was discharged for good cause due to misconduct, or conviction of a felony or gross misdemeanor:

(i) As defined and determined under chapter 50.20 RCW as amended; and

(ii) As interpreted under WAC 192-16-019 as amended.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-2900, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3000 Self-initiated training or education. (1) The department shall consider a person's training or education to be self-initiated if the person is enrolled in or is attending school at the time the person would otherwise begin participation in JOBS.

(2) The service provider shall conduct an assessment under WAC 388-300-1100 before considering a component for approval and inclusion in the participant's employability plan.

(3) The service provider shall ensure that the training or education component meets the criteria for occupational goal and component approval in WAC 388-300-1300.

(4) The service provider shall allow a person to continue in the training or education activity when:

(a) The participant is attending at least half-time;

(b) The participant is making satisfactory progress in the activity; and

(c) The course of study is consistent with the approved employment goal.

(5) The service provider shall not cause the number of hours available for self-initiated education or training to be limited or restricted by assignment of the participant to another component except in the case of an AFDC-E household where one parent must be participating sixteen hours per week in an unemployed parent program component under WAC 388-300-2100.

(6) The JOBS program shall not pay component costs such as tuition, books, supplies, and fees for a participant's self-initiated training or education.

(7) Participants shall be eligible for JOBS child care and supportive services while participating in approved self-initiated training or education provided the provisions in subsection (5) of this section are met in the case of AFDC-E participants.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3000, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3100 Job development and placement services. (1) Job development and placement services are those activities conducted by a service provider on behalf of a participant designed to:

(a) Solicit a public or private employer's unsubsidized job openings;

(b) Discover job openings with public or private employers;

(c) Market participants for specific job openings; and

(d) Secure job interviews for participants.

(2) The service provider shall offer job development and placement services to a participant when an assessment indicates that the person:

(a) Has skills that are in demand in the local labor market; and

(b) Has not been successful in job search efforts.

(3) The service provider shall focus job development and placement efforts on the skills of an individual participant.

(4) The service provider shall ensure that the participant is informed of the name of employers that will be or have been contacted on that participant's behalf.

(5) The service provider shall ensure that information provided to employers about a participant is made known to that participant before contacting employers.

(6) The service provider shall not release information to employers in addition to information regarding the participant's job skills without the participant's written authorization.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3100, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3200 Good cause for refusal or failure to participate. (1) The department shall determine whether a person has good cause:

(a) For refusal to or failure to participate in an assigned JOBS component; or

(b) To accept or to retain employment.

(2) The department may determine good cause without the participation of the participant. In such cases, the determination process includes, but is not limited to, the department independently:

(a) Determining if the person intentionally refused to or failed to participate in JOBS;

(b) Documenting efforts to resolve the issues prior to conciliation as provided in WAC 388-300-3300;

(c) Reviewing the case record to determine:

(i) Potential causes for refusal or failure to meet program requirements; and

(ii) If the person may have had good cause for nonparticipation.

(3) The department may determine that the participant has good cause for reasons including, but not limited to:

(a) A person is the parent or other needy caretaker of a child five years of age or younger and the activity or employment requires such person to participate more than twenty hours per week. The department shall ensure this subsection does not apply to a person subject to the provisions for educational activities under WAC 388-300-2200;

(b) A person's employment results in the family of the participant experiencing a net loss of income. A net loss of income results if the family's gross income, less necessary work-related expenses, is less than the cash assistance the person was receiving before employment. The participant's grant income includes, but is not limited to, earnings, unearned income, and cash assistance;

(c) A person's physical, mental, or emotional inability to perform the required activity;

(d) A person's court-ordered appearance or temporary incarceration;

(e) Urgent personal or family circumstances which would interfere with successful participation;

(f) Breakdown in transportation arrangements with no readily accessible alternate transportation;

(g) Inclement weather preventing a person, and others similarly situated, from traveling to or participating in the prescribed activity;

(h) The person is prevented from participating due to a breakdown in child care arrangements, or unavailability of child care;

(i) The nature of the required activity is hazardous to the participant;

(j) A person's required activity:

(i) Interrupts a program in process for permanent rehabilitation or self-support; or

(ii) Conflicts with an imminent likelihood of re-employment in the person's regular occupation.

(k) Nonreceipt of participation requirements or a notice of appointment with program staff;

(l) Availability of a position because of a labor dispute;

(m) A person's refusal to accept major medical treatment (for example, major surgery) needed for employability;

(n) Supportive services enabling participation are not available;

(o) A person is homeless;

(p) Discrimination by an employer in terms of age, sex, race, color, religion, national or ethnic origin, physical or mental handicap, political affiliation, or marital status prevented the participant's employment or JOBS participation;

(q) Working hours or nature of employment interfere with the participant's religious observances, convictions, or beliefs as a member of a bona fide religious organization;

(r) Work involves conditions in violation of applicable health and safety standards;

(s) The employment, or offer of employment, does not provide for workers' compensation or other benefits afforded to a person similarly situated working for the same employer;

(t) The employment would cause a person to violate the terms of the person's existing union membership;

(u) As a condition of employment, the person is required to join, resign from, or refrain from joining any legitimate labor organization;

(v) The employment:

(i) Involves unreasonable demands or conditions, such as working without getting paid on schedule; or

(ii) Exceeds the daily or weekly hours customary to the occupation.

(w) The wages of the employment do not meet minimum wage standards or are not customary for such work in the community. This does not apply to work experience as participants do not receive a wage; or

(x) Refusal by an AFDC-E qualifying parent to accept employment of one hundred hours or more per month, the wages for which, less mandatory payroll deductions and necessary work-related expenses, would not equal or exceed the family's AFDC cash benefits. This does not apply to work experience which does not involve wages.

(4) If the department cannot determine that good cause exists from the information independently available, the department shall notify the person in writing of the opportunity to explain the circumstances, if any, which may constitute good cause for nonparticipation in JOBS. The department shall ensure the notice:

(a) Provides ten days advance notice of an appointment to discuss potential good cause;

(b) Provides a description of the program requirement the person failed to meet;

(c) Informs the person of the person's right to provide an explanation of any failure to meet the program requirement;

(d) Informs the person that lack of good cause may result in the reduction of the person's AFDC grant;

(e) Informs the person of the right to conciliation; and

(f) Informs the person that failure to respond to appointments to determine good cause results in a good cause determination made from available information.

(5) The department shall provide written notice to a participant of any good cause determinations made regarding the participant's nonparticipation in JOBS and, when appropriate, that the person can resume participation without further action.

(6) When the department has determined a participant has refused or failed to participate without good cause in the JOBS program, the department shall notify the service provider who initiated the good cause proceeding of the good cause determination.

(7) Participants determined to lack good cause for failing to participate in JOBS components or activities shall be offered conciliation services under WAC 388-300-3300 by the service provider who initiated the good cause determination.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3200, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3300 Conciliation. (1) The department shall ensure conciliation is used to attempt to resolve a misunderstanding or disagreement before either results in a grievance, fair hearing, or sanction.

(2) Either the service provider or the JOBS participant may initiate conciliation. The participant shall have the right to request that a department representative facilitate conciliation between the participant and the service provider. A participant may request conciliation of any dispute orally or in writing by:

(a) Notifying the service provider that conciliation is desired; and

(b) Specifying the matter to be addressed.

(3) The service provider who initiated the request for a good cause determination shall conduct conciliation with a participant who has been determined by the department to lack good cause for participation in the JOBS program and has so informed the service provider under WAC 388-300-3200. The service provider shall:

(a) Accomplish conciliation through a face-to-face meeting with the person; or

(b) Arrange a telephone interview with the person if a face-to-face meeting is not possible; and

(c) Continue conciliation if the participant cannot be contacted. The service provider shall continue to attempt to contact the person for thirty days from the date the first notice was mailed.

(4) The service provider shall conduct conciliation before the department imposes a sanction.

(5) The service provider shall provide the participant with written notice of the conciliation appointment. The service provider shall ensure that this notice contains:

(a) A description of the matter in dispute;

(b) An explanation of the person's right to a conciliation period not to exceed thirty calendar days from the date of notice;

(c) The date and time of the conciliation appointment;

(d) The consequences of failing to resolve the dispute through conciliation; and

(e) The person's right to a fair hearing regardless of the outcome of conciliation.

(6) The service provider shall mail such notice not less than ten working days before the conciliation appointment.

(7) The service provider shall:

(a) Remain available for conciliation for thirty days from the date of the first notice;

(b) Use the conciliation process to determine if the situation is a result of a misunderstanding or failed communication and can therefore be resolved;

(c) During the conciliation interview, explain the person's rights and responsibilities under JOBS, including consequences of continued refusal to participate; and

(d) Inform a person that if the person feels aggrieved or disadvantaged by the conciliation process or a decision resulting from the conciliation process, that the person may appeal through the department's standard grievance procedure and/or fair hearing procedure.

(8) The service provider or the participant may terminate conciliation before the expiration of the thirty-day period:

(a) Upon written request by the participant to terminate conciliation; or

(b) If the service provider documents reasons which indicate the dispute cannot be resolved by conciliation based on current efforts.

(9) The service provider shall notify the department of all conciliation results.

(10) The department shall take no adverse action relative to the matter in dispute if the matter is successfully resolved.

(11) If a dispute is not resolved through conciliation, the department shall provide the person with an opportunity for a fair hearing.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3300, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3400 Sanctions for refusal or failure to participate. (1) When an AFDC recipient required to participate in the JOBS program refuses or fails to participate in JOBS without good cause, the department shall apply sanctions during the following periods:

(a) For the first failure to comply, until the failure to comply ceases;

(b) For the second such failure to comply, until the failure to comply ceases or three months, whichever is longer;

(c) For each subsequent failure to comply, until the failure to comply ceases or six months, whichever is longer.

(2) Failure to participate is a consistent pattern of noncooperation in JOBS and includes, but is not limited to:

(a) Failure to meet the requirements for assessment and employability plan development, high school or GED completion, or job search requirements;

(b) Not appearing for appointments with the service provider;

(c) Not appearing for appointments with other than the service provider when referred for employment-related activity, including social services;

(d) Not accepting or continuing required JOBS component activity; or

(e) Failure to accept a job offered when good cause is not established under WAC 388-300-3200.

(3) During the period specified under section (1) of this section, the department shall impose a sanction on the person by excluding:

(a) The person's needs in determining the family's need for assistance and the amount of the assistance payment; and

(b) If the sanctioned person is the qualifying parent in a family eligible for the AFDC due to an unemployed parent, unless the second parent is participating in the JOBS program, the needs of the second parent in determining:

(i) The family's need for assistance; and

(ii) The amount of the assistance payment.

(4) If the person is the only dependent child, the department shall exclude the person's needs in determining the family's need for assistance and the amount of the assistance payment.

(5) If a sanction is applied to the only caretaker relative in the family, the department may continue to make payments:

(a) For the remaining members of the assistance unit in the form of protective payments; or

(b) If a protective payee cannot be identified, on behalf of the remaining members of the assistance unit, to the sanctioned caretaker relative.

(6) The department shall notify, in writing, a person whose failure or refusal continues for three months of the person's option to end the sanction. The department's notice shall advise a sanctioned person that the person may terminate:

(a) The first or second sanction by participating in the JOBS program or accepting employment; and

(b) A subsequent sanction after six months have elapsed by participating in the program or accepting employment.

(7) The department shall ensure that imposition of sanction is preceded by a timely written notice of adverse action under WAC 388-33-376. The department shall ensure the notice contains:

(a) An explanation of the reasons for the proposed action;

(b) The factual reasons for the determination that the person failed to participate in JOBS without good cause;

(c) An explanation of the rights to a fair hearing and continued benefits;

(d) An explanation of how the sanction can be terminated by complying with program requirements; and

(e) In the case of a household receiving AFDC due to the unemployment of a parent, an explanation of:

(i) The sanction and benefit reduction to the second parent; and

(ii) The right of that parent to stop application of the sanction against the second parent by participating in the JOBS program.

(8) The department shall not impose a sanction until conciliation has been attempted.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3400, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3500 Complaints and grievances. (1) A person who is volunteering for or required to participate in any JOBS component has the right to file a complaint or grievance with the department regarding the person's participation in JOBS. The department shall ensure that the person is informed of this right at the time of assignment to a JOBS pathway or component.

(2) A regular employee who is aggrieved under WAC 388-300-3700 shall have the right to file a complaint or grievance.

(3) The department shall pursue complaints or grievances in accordance with standard grievance procedures provided in WAC 388-33-389.

(4) The department shall inform any person who files a complaint or grievance that filing such a complaint or grievance shall not:

(a) Interfere with the person's rights to request a fair hearing by the department on the issue; or

(b) Be required of a person before the person requests a fair hearing.

(5) A person who has been assigned to a JOBS pathway or component shall not be relieved of required JOBS activities pending the results of a filed grievance or a request for a fair hearing.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3500, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3600 Fair hearings. (1) The department shall conduct fair hearings following chapter 388-08 WAC and shall ensure fair hearings are governed by that chapter and this section. If a provision of this section conflicts with a provision in chapter 388-08 WAC, the department shall ensure that the provisions in this section control.

(2) An AFDC applicant and recipient shall have the right to a fair hearing on any JOBS decision affecting participation in JOBS.

(3) A regular employee who is aggrieved under WAC 388-300-3700 shall have the right to a fair hearing.

(4) A person to whom the department has issued a notice of adverse action shall have the right to contest the department's proposed action.

(5) A person who contests the department's proposed action under subsection (4) of this section has ninety days to file a request for a fair hearing.

(6) If a person files a request for a fair hearing under subsection (4) of this section within ten days of the issuance, that person shall not have the sanction imposed until the fair hearing decision has been made.

(7) The department may impose sanctions under WAC 388-300-3400 if:

(a) The person's adverse action is not contested within ten days of issuance; or

(b) The person loses the fair hearing on the action.

(8) Any AFDC assistance received pending a fair hearing or hearing decision is considered to be an overpayment when the fair hearing decision subsequently finds against the participant.

(9) If a person requests a fair hearing, the person's AFDC assistance, child care, or support service may not be suspended, reduced, discontinued, or terminated until the fair hearing is concluded if the person requested the fair hearing:

(a) Within ten days of the notice of adverse action; or

(b) On or before the effective date of the action: *Provided*, That if the department seeks to terminate supportive services or child care of a JOBS program participant pursuant to WAC 388-300-1800 as a result of the participant's failure to make satisfactory progress as defined in WAC 388-300-0200 or because the participant has ceased to participate in the component activity before completion of the activity, the department may request that an expedited preliminary hearing be held for the sole purpose of determining whether child care or other supportive services shall continue pending the hearing. In making the determination of whether child care or other supportive services shall be continued pending the hearing, the administrative law judge shall consider the likelihood that the department will prevail at the hearing, the harm that will be suffered by the participant if the child care or supportive services are terminated, and the cost to the department if child care and supportive services are continued pending the hearing.

(10) If a regular employee requests a fair hearing under this section, the decision of the administrative law judge hearing the issue shall:

(a) Provide an opportunity for the employer or other persons or entities to rectify the situation; and

(b) State the actions to be taken by the department, or the service provider, if any. The department's or the service provider's actions may include, but are not limited to:

(i) Removing the JOBS participant from the place of employment;

(ii) Establishing an overpayment for the amount of the subsidy;

(iii) Removal of the employer from involvement in the program for a specified period of time; or

(iv) Prohibition of future referrals or placements with the employer.

(c) Include the effective date of implementation and methods for extending that date. At the discretion of the administrative law judge hearing the issue, the judge may make a decision effective the date of delivery or of mailing, retroactive, or remedial in nature. The department shall ensure an appeal of the decision does not in itself delay implementation of the order.

(11) The department shall ensure a person who requests a fair hearing under this section receives an adjudicative decision in writing within ninety days of the request.

(12) The department shall ensure an adjudicative decision issued under this section includes:

(a) A notice of appeal rights to the federal level; and

(b) The requirements for filing such an appeal as specified under 45 CFR 251.4.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3600, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3700 Displacement of regular employees. (1) The service provider shall ensure that WEX, OJT, and work supplementation, including employment partnership program (EPP), component activities for JOBS participants do not:

(a) Result in the displacement of any currently employed worker or position, including partial displacement, such as a reduction in hours of overtime or nonovertime work, wages, or employment benefits;

(b) Impair existing contracts for services or collective bargaining agreements;

(c) Result in the employment or assignment of a participant or the filling of a position when:

(i) Any other person is on layoff from the same or a substantially equivalent job within the same organizational unit; or

(ii) An employer has terminated any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created by hiring a participant whose wages are subsidized under this program.

(d) Infringe on promotional opportunities of any currently employed person.

(2) The department shall ensure that work supplementation component activities for JOBS participants do not result in the filling of any established unfilled position vacancy by a participant in a component activity under WAC 388-300-2700 or WAC 388-300-2900.

(3) Displaced regular employees who feel aggrieved shall have the right to:

(a) A grievance procedure under WAC 388-300-3500 or fair hearing; and

(b) Appeal rights under WAC 388-300-3800.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3700, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3800 Employment protection. (1) A person participating in the JOBS program components on-the-job training, work supplementation program, or work experience has the right to a grievance procedure under WAC 388-300-2900 and a fair hearing under WAC 388-300-3600 to resolve a complaint regarding:

(a) On-the-job working conditions; or

(b) Worker's compensation coverage.

(2) A regular employee, or the employee's representative, who believe the work assignment of a JOBS participant violates any of the prohibitions in WAC 388-300-3800 has the right to:

(a) A grievance procedure under WAC 388-300-3500; and

(b) A fair hearing under WAC 388-300-3600 which the department shall concurrently attempt to resolve through the grievance procedure if not previously used to resolve the complaint.

(3) Regular employees who file grievances or fair hearings under subsection (1) or (2) of this section may appeal the final adjudicative decision or order with:

(a) The Washington courts under the provisions of part V of chapter 34.05 RCW; or

(b) The Office of Administrative Law Judges, U.S. Department of Labor, under the provisions of 45 CFR 251.5(3).

(4) A person may use both appeal routes specified in subsection (3) of this section provided that such appeals are filed concurrently and within the limits set forth in either part V of chapter 35.05 [34.05] RCW or 45 CFR 251.5(b) respectively, each measured from the date of the final adjudicative decision.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3800, filed 9/18/95, effective 10/19/95.]

WAC 388-300-3900 Tribal JOBS. (1) The department shall refer an applicant or recipient of AFDC who is an Indian to the tribal JOBS program if the person resides in the designated service area of an Indian tribe which operates a tribal JOBS program.

(2) The department shall provide JOBS services to an Indian living outside the designated service area of tribal JOBS program.

(3) The department shall remove from the AFDC grant the needs of a person whom the tribe determines:

(a) Is not exempt; and

(b) Has not participated in the tribal JOBS program; and

(c) Did not have good cause for refusal or failure to participate in the tribal JOBS program.

(4) The department shall provide a tribal JOBS participant with child care, according to chapter 388-51 WAC. Under chapter 388-51 WAC, a participant in the tribal JOBS program shall be eligible for transitional child care.

(5) A participant in the tribal JOBS program shall receive all other supportive services from the tribal JOBS program.

[Statutory Authority: Chapter 74.25A RCW and RCW 74.08.090. 95-19-075 (Order 3897), § 388-300-3900, filed 9/18/95, effective 10/19/95.]

Chapter 388-500 WAC
MEDICAL DEFINITIONS

WAC

388-500-0005 Medical definitions.

WAC 388-500-0005 Medical definitions. Unless defined in this chapter or specifically defined in other chapters of the *Washington Administrative Code*, the department shall use definitions found in the *Webster's New World Dictionary*. This section contains definitions of words and phrases the department uses in rules for medical programs. Definitions of words used for both medical and financial programs are defined under WAC 388-22-030.

"Application" for eligibility for medical programs means a written request to the department of social and health services (DSHS) on a department form, from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.

"Assignment Medicare" means the method by which the provider receives payment for services under Part B of Medicare.

"Assignment of rights" means the client gives the state the right to payment and support for medical care from a third party.

"**Assistance unit**" means a person or members of a family unit who are eligible for medical care.

"**Authorization**" means official approval for department action.

"**Base period**" means the time period used in the limited casualty program which corresponds with the months considered for eligibility.

"**Beneficiary**" means an eligible person who receives:

* A federal cash Title XVI benefit; and/or
* State supplement under Title XVI; or
* Benefits under Title XVIII of the Social Security Act.

"**Benefit period**" means the time period used in determining whether Medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. The benefit period ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary may receive. Benefit period also means a "spell of illness" for Medicare payments.

"**Cabulance**" means a for-hire vehicle designed and used to transport a person confined to a wheelchair or persons otherwise physically restricted.

"**Carrier**" means an organization contracting with the federal government to process claims under Part B of Medicare.

"**Categorical assistance unit (CAU)**" means one or more family members whose eligibility for medical care is determined separately or together based on categorical relatedness.

"**Categorically needy**" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act and is:

* A client receiving or eligible to receive cash assistance under:
* Aid to families with dependent children (AFDC);
* Supplemental security income (SSI), including a grandfathered person and a person with an essential spouse:
* State supplement;
* Continuing state-funded cash assistance who is blind or disabled under SSI criteria, as described under WAC 388-511-1105; or
* Special categories.
* A financially eligible person under twenty-one years of age who would be eligible for AFDC but does not qualify as a dependent child and who is in:
* Foster care;
* Subsidized adoption;
* A nursing facility or intermediate care facility for mentally retarded; or
* An approved inpatient psychiatric facility.
* A person who would be eligible for cash assistance except for the person's institutional status.
* A person who is SSI categorically related and would not be eligible for cash assistance if the person was not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap.
* A qualified severely impaired disabled person under sixty-five years of age who works.
* A person during a temporary period who lost AFDC because of increased earnings, increased hours, loss of earned income disregards, or by receiving child or spousal support payments.
* A pregnant woman:
* Who meets AFDC financial eligibility standards;
* Who would qualify for AFDC if the baby was already born;
* Whose family income does not exceed one hundred eighty-five percent of the federal poverty level; or
* Who was eligible for and receiving Medicaid while pregnant continues to be eligible through a sixty-day postpartum period that extends through the month that contains the sixtieth day after birth.
* An infant until the infant's first birthday when the infant lives with the mother and the mother was Medicaid eligible at the time the infant was born;
* An infant under one year of age whose family income does not exceed one hundred eighty-five percent of the federal poverty level;
* A child under six years of age or until the child is no longer an inpatient if the inpatient stay began before six years of age and whose family income does not exceed one hundred thirty-three percent of the federal poverty level.
* A child born after September 30, 1983, who has attained six years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, but not attained eighteen years of age whose family income does not exceed one hundred percent of the federal poverty level.
* A child up to eighteen years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, born before September 30, 1983, with income allowed by AFDC.
* A certain widow, widower, and other qualified person who fails to meet SSI standards because of Social Security coverage or increase in Social Security coverage.
* A Medicare-eligible person whose income does not exceed one hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.
* A disabled working person entitled to enroll in Medicare Part A, whose income does not exceed two hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.
* An alien as defined under WAC 388-510-1020; or
* A person whose categorical eligibility is protected by statute.

"**Children's health program**" means a state-funded medical program for children under eighteen years of age:

* Whose family income does not exceed one hundred percent of the federal poverty level; and
* Who are not otherwise eligible under Title XIX of the Social Security Act.

"**Client**" means an applicant for or recipient of DSHS medical care programs.

"**Coinsurance-Medicare**" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which Medicare does not pay. Under Part A, coinsurance is a per day dollar amount. Under Part B, coinsurance is twenty percent of reasonable charges.

"Community services office (CSO)" means an office of the department which administers social and health services at the community level.

"Copayment" means a fixed dollar amount that is the responsibility of the client.

"Couple" means, for the purposes of an SSI-related client, an SSI-related client living with a person of the opposite sex and both presenting themselves to the community as husband and wife. The department shall consider the income and resources of such couple as if the couple were married.

"Deductible-Medicare" means an initial specified amount that is the responsibility of the client.

* **"Part A of Medicare-inpatient hospital deductible"** means an initial amount of the medical care cost in each benefit period which Medicare does not pay.

* **"Part B of Medicare-physician deductible"** means an initial amount of Medicare Part B covered expenses in each calendar year which Medicare does not pay.

"Delayed certification" means a department approval of a person's eligibility for medicaid made after the established application processing time limits.

"Department" means the state department of social and health services.

"Early and periodic screening, diagnosis and treatment (EPSDT)" also known as the "healthy kids" program, means a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible for Medicaid or the children's health program.

"Electronic fund transfers" means automatic bank deposits to a client's account.

"Emergency medical condition" means a medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

* Placing the patient's health in serious jeopardy;

* Impairment to bodily functions; or

* Dysfunction of any bodily organ or part.

"Emergency medical expense requirement" means a specified amount of expenses for ambulance, emergency room or hospital services, including physician services in a hospital, incurred for an emergency medical condition that a client must incur prior to certification for the medically indigent program.

"Essential spouse" see **"spouse."**

"Extended care patient" means a recently hospitalized Medicare patient needing relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

"Garnishment" means withholding an amount from earned or unearned income to satisfy a debt or legal obligation.

"Grandfathered client" means:

* A noninstitutionalized person who meets all current requirements for Medicaid eligibility except the criteria for blindness or disability; and

* Was eligible for Medicaid in December 1973 as blind or disabled whether or not the person was receiving cash assistance in December 1973; and

* Continues to meet the criteria for blindness or disability and other conditions of eligibility used under the Medicaid plan in December 1973; and

* An institutionalized person who was eligible for Medicaid in December 1973 or any part of that month, as an inpatient of a medical institution or resident of an intermediate care facility that was participating in the Medicaid program and for each consecutive month after December 1973 who:

* Continues to meet the requirements for Medicaid eligibility that were in effect under the state's plan in December 1973 for institutionalized persons; and

* Remains institutionalized.

"Health insuring organization (HIO)" means an entity that arranges and pays for medical services provided to an eligible enrolled client in exchange for a premium or subscription charge paid by the department on a prepaid capitation risk basis.

"Health maintenance organization (HMO)" means an entity that provides comprehensive medical services directly to an eligible enrolled client in exchange for a premium paid by the department on a prepaid capitation risk basis.

"Healthy kids," see **"EPSDT."**

"Home health agency" means an agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence.

"Hospital" means an institution licensed as a hospital by the official state licensing authority.

"Income" means, for an SSI-related client, the receipt by an individual of any property or service which the client can apply either directly, by sale, or conversion to meet the client's basic needs for food, clothing, and shelter.

* **"Earned income"** means gross wages for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.

* **"Unearned income"** means all other income.

"Institution" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. This includes medical facilities, nursing facilities, and institutions for the mentally retarded, but does not include correctional institutions.

* **"Institution-public"** means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

* **"Institution for mental diseases"** means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services.

* **"Institution for the mentally retarded or a person with related conditions"** means an institution that:

* Is primarily for the diagnosis, treatment or rehabilitation of the mentally retarded or a person with related conditions; and

* Provides, in a protected residential setting, on-going care, twenty-four hour supervision, evaluation, and planning to help each person function at the greatest ability.

* **"Institution for tuberculosis"** means an institution for the diagnosis, treatment, and care of a person with tuberculosis.

* **"Medical institution"** means an institution:

* Organized to provide medical care, including nursing and convalescent care;

* With the necessary professional personnel, equipment and facilities to manage the health needs of the patient on a continuing basis in accordance with acceptable standards;

* Authorized under state law to provide medical care; and

* Staffed by professional personnel. Services include adequate physician and nursing care.

"Intermediary" means an organization having an agreement with the federal government to process Medicare claims under Part A.

"Legal dependent" means a person whom another person is required by law to support.

"Limited casualty program (LCP)" means a medical care program for medically needy as defined under WAC 388-503-0320 and for medically indigent as defined under WAC 388-503-0370.

"Medicaid" means the federal aid Title XIX program under which medical care is provided to:

* Categorically needy as defined in WAC 388-503-0310 and 388-503-1105; or

* Medically needy as defined in WAC 388-503-0320.

"Medical assistance" means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined in WAC 388-503-0310 and 388-503-1105.

"Medical assistance administration (MAA)" means the unit within the department of social and health services authorized to administer the Title XIX Medicaid and the state-funded medical care programs.

"Medical assistance unit (MAU)" means one or more family members whose eligibility for medical care is determined separately or together based on financial responsibility.

"Medical care services" means the limited scope of care financed by state funds and provided to general assistance (GAU) and ADATSA clients.

"Medical consultant" means a physician employed by the department.

"Medical facility" see **"Institution."**

"Medically indigent (MI)" means a state-funded medical program, part of the limited casualty program, for a person with limited income and resources who has an emergency medical condition requiring hospital-based services.

"Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all.

"Medically needy (MN)" is the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income and/or resources above the categorically needy level, would be eligible as categorically needy. Effective January 1, 1996, an AFDC-related adult is not eligible for MN.

"Medicare" means the federal government health insurance program for certain aged or disabled clients under Titles II and XVIII of the Social Security Act. Medicare has two parts:

* **"Part A"** covers the Medicare inpatient hospital, post-hospital skilled nursing facility care, home health services, and hospice care.

* **"Part B"** is the supplementary medical insurance benefit (SMIB) covering the Medicare doctor's services, outpatient hospital care, outpatient physical therapy and speech pathology services, home health care, and other health services and supplies not covered under Part A of Medicare.

"Month of application" means the calendar month a person files the application for medical care unless the application is for the medically needy program, then, at the person's request and if the application is filed in the last ten days of that month, the month of application may be the following month.

"Nursing facility" means any institution or facility the department of health licenses as a nursing facility, or a nursing facility unit of a licensed hospital, that the:

* Department certifies; and

* Facility and the department agree the facility may provide skilled nursing facility care.

"Outpatient" means a nonhospitalized patient receiving care in a hospital outpatient or hospital emergency department, or away from a hospital such as in a physician's office, the patient's own home, or a nursing facility.

"Patient transportation" means client transportation to and from covered medical services under the federal Medicaid and state medical care programs.

"Physician" means a doctor of medicine, osteopathy, or podiatry who is legally authorized to perform the functions of the profession by the state in which the services are performed.

"Professional activity study (PAS)" means a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, to determine the average length of hospital stay for patients. These data were published in a book entitled, *Length of Stay in PAS Hospitals, Western.* The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for clients of state-funded programs, or where no memorandum of understanding with a professional review organization (PRO) exists.

"Professional review organization for Washington (PRO-W)" means the state level organization responsible for determining whether health care activities:

* Are medically necessary;

* Meet professionally acceptable standards of health care; and

* Are appropriately provided in an outpatient or institutional setting for beneficiaries of Medicare and clients of Medicaid and maternal and child health.

"Prosthetic devices" mean replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice as defined by state law to:

* Artificially replace a missing portion of the body;

* Prevent or correct physical deformity or malfunction; or

* Support a weak or deformed portion of the body.

"Provider" or **"provider of service"** means an institution, agency, or person:

* Having a signed agreement with the department to furnish medical care and goods and/or services to clients; and

* Eligible to receive payment from the department.

"Resources" mean, for an SSI-related client, cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

* If an individual can reduce a liquid asset to cash, it is a resource.

* If an individual cannot reduce an asset to cash, it is not considered an available resource.

* Liquid - Properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.

* Nonliquid - All other property both real and personal shall be evaluated according to the price the item can reasonably be expected to sell for on the open market in the particular geographical area involved.

"Retroactivity" means the period of no more than three calendar months before the application month of an otherwise eligible person under the Federal aid Title XIX program.

"Spell of illness" see **"benefit period."**

"Spenddown" means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the department.

"Spouse" means:

* **"Community spouse"** means a person living in the community and married to an institutionalized person or to a person receiving services from a home and community-based waivered program.

* **"Eligible spouse"** means an aged, blind or disabled husband or wife of an SSI-eligible person with whom such spouse lives.

* **"Essential spouse"** means, for the purposes of SSI, a spouse whose needs were taken into account in determining the need of an old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) client for December 1973, who continues to live in the home and to be the spouse of such client.

* **"Ineligible spouse"** means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person and who has not applied or is not eligible to receive SSI.

* **"Institutionalized spouse"** means a married person in an institution or receiving services from a home or community-based waivered program.

* **"Nonapplying spouse"** means the husband or wife, who has not applied for assistance, of an SSI-eligible person.

"SSI-related" means an aged, blind or disabled person.

"State office or SO" means the medical assistance administration of the department of social and health services.

"Supplemental security income (SSI) program, Title XVI" means the federal grant program for aged, blind, and disabled established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

"Supplementary payment (SSP)" means the state money payment to persons receiving benefits under Title XVI, or who would, but for the person's income, be eligible for such benefits, as assistance based on need in supplementation of SSI benefits. This payment includes:

* **"Mandatory state supplement"** means the state money payment to a person who, for December 1973, was a client receiving cash assistance under the department's former programs of old age assistance, aid to the blind and disability assistance; and

* **"Optional state supplement"** means the elective state money payment to a person eligible for SSI benefits or who, except for the level of the person's income, would be eligible for SSI benefits.

"Third party" means any entity that is or may be liable to pay all or part of the medical cost of care of a federal Medicaid or state medical care client.

"Title XIX" is the portion of the federal Social Security Act that authorizes grants to states for medical assistance programs. Title XIX is also called Medicaid.

"Transfer" means any act or omission to act when title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

* An intentional act or transfer; or

* Failure to act to preserve title to the resource.

"Value-fair market" means, for SSI-related medical eligibility, the current value of a resource at the going price for which the resource can reasonably be expected to sell on the open market in the particular geographic area involved.

"Value of compensation received" means, for SSI-related medical eligibility, the gross amount paid or agreed to be paid by the purchaser.

"Value-uncompensated" means, for SSI-related medical eligibility, the fair market value of a resource minus the amount of compensation received in exchange for the resource.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-500-0005, filed 10/25/95, effective 10/28/95; 94-10-065 (Order 3732), § 388-500-0005, filed 5/3/94, effective 6/3/94.]

Chapter 388-503 WAC
PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE

WAC

WAC 388-503-0320 Medically needy eligible persons. (1) The department shall determine as medically needy a resident of the state of Washington who:

(a) Meets or exceeds the medically needy income level in WAC 388-507-0710;

(b) Meets resource standards in WAC 388-507-0720; and

(c) Otherwise meets the eligibility criteria under subsection (2) of this section.

(2) The department shall determine as medically needy a person who:

(a) Would be categorically needy as defined under WAC 388-503-0310 but has excess income and/or resources. Refer to subsection (3) of this section for exceptions;

(b) Is the aged, blind, or disabled ineligible spouse of an SSI beneficiary;

(c) Is a child eighteen years of age or younger as defined under WAC 388-509-0910 who has excess income; or

(d) Is a pregnant woman the department would consider categorically needy but who has excess income. For the purposes of this subsection, the department shall increase the number in the household by the number of unborn children before comparing the pregnant woman's income to the medically needy income level in WAC 388-507-0710.

(3) The department shall determine ineligible for medically needy:

(a) An inmate of a public institution; and

(b) Effective January 1, 1996, an AFDC-related adult.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18 §§ 2095a and 5b. 95-24-017 (Order 3921, #100267), § 388-503-0320, filed 11/22/95, effective 1/1/96. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-503-0320, filed 5/3/94, effective 6/3/94.]

WAC 388-503-0370 Medically indigent eligible persons. The department shall determine a person eligible for the medically indigent program when the person:

(1) Has an emergency medical condition requiring hospital services.

(a) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in serious:

(i) Jeopardy to the patient's health;

(ii) Impairment to bodily functions; or

(iii) Dysfunction of any bodily organ or part.

(b) For the purposes of this section, the department shall consider pregnancy and treatment under the Involuntary Treatment Act (ITA) as emergency medical conditions.

(2) Meets the financial eligibility, emergency medical expense and spenddown requirements under chapter 388-518 WAC; and

(3) Is not an inmate of a federal or state prison.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-503-0370, filed 10/25/95, effective 10/28/95; 94-10-065 (Order 3732), § 388-503-0370, filed 5/3/94, effective 6/3/94.]

Notice of Objection (1): It is the opinion of the Joint Administrative Rules Review Committee that the Department of Social and Health Services has not modified, amended, withdrawn or repealed WAC 388-100-005 to conform with the intent of the legislature, as expressed in both chapters 70.48 and 74.09 RCW.

Although the department has statutory authority in chapter 74.09 RCW, to determine who is eligible to receive assistance under the limited casualty medical program, that authority is not without limitation. The City and County Jail Act of 1977 requires the Department of Social and Health Services to reimburse the local government for inmate medical costs, provided that inmate is otherwise eligible for such care. Inmates have not been denied coverage based on their status as inmates since the enactment of the City and County Jail Act.

In determining legislative intent, a portion of a statute cannot be examined in a vacuum. Rather, all statutes relating to the same subject should be read together and given a harmonious interpretation. The legislature is presumed to enact law with knowledge of existing law. RCW 70.48.130 is made moot by the department's administrative denial of inmate medical coverage, and the legislature does not intend to enact "moot" legislation.

The Joint Administrative Rules Review Committee objects to WAC 388-100-005 and herewith directs the code reviser to publish this Notice of Objection . . . pursuant to RCW 34.04.240.

[Joint Administrative Rules Review Committee, Memorandum, July 10, 1987—Filed July 27, 1987, WSR 87-16-031]

Notice of Objection (2): The Joint Administrative Rules Review Committee (JARRC) held on July 27, 1987, that WAC 388-100-005 did not conform with the intent of the Legislature. This rule, adopted by the Department of Social and Health Services (DSHS), excluded inmates of federal or state prisons from eligibility for the limited casualty-medically indigent program of medical assistance.

As authority for its opinion, the committee cited RCW 70.48.130 of the City and County Jail Act of 1977 which requires DSHS to reimburse local governments for inmate medical costs provided to otherwise eligible inmates.

There has been no amendment to RCW 70.48.130 changing its meaning since 1986. Effective May 15, 1993, an amendment resulted in even further emphasis of the intent of the Legislature that all jail inmates receive cost-effective medical care. (1993 C 409 § 2)

On May 31, 1994, DSHS refiled a permanent rule, WSR 94-10-065, WAC 388-503-0370 which recodified WAC 388-100-005. The eligibility requirement that an applicant for the medically indigent program not be an inmate of a federal or state prison is retained in the new rule.

Since neither the statutory authority nor the substance of the rule has changed since the JARRC decision of July 27, 1987, the committee is of the opinion that DSHS has not modified, amended, withdrawn or repealed WAC 388-100-005 to conform with the intent of the Legislature. This being the case, pursuant to RCW 34.05.640 (5) and (6), the committee respectfully requests that the notice of objection published along with WAC 388-100-005 continue to be published along with WAC 388-503-0370.

[Joint Administrative Rules Review Committee, Memorandum February 21, 1995—Filed February 27, 1995, WSR 95-06-053.]

Chapter 388-504 WAC
FILING A MEDICAL APPLICATION

WAC

WAC 388-504-0470 Application disposition. (1) The department shall approve or deny a request for medical care within:

(a) Sixty calendar days for a client requiring a disability decision;

(b) Forty-five calendar days for all other categories except a pregnant woman as described under subsection (1) (c) of this section; and

(c) Fifteen working days for a pregnant woman, including an interview within five working days if an interview is requested by the client;

(d) When applying subsection (1) (a), (b), or (c) of this section, the department shall count as day one the date following the date of application.

(2) The department shall:

(a) Act on each application as quickly as possible; and

(b) Not use the standards for timely processing of applications as a waiting period for determining eligibility.

(3) The department shall follow criteria under chapter 388-210 WAC for the approval, denial, or withdrawal of an application for:

(a) Medical assistance;

(b) Medical care services;

(c) The limited casualty program; and

(d) Children's health program.

[Statutory Authority: RCW 74.08.090. 95-22-040 (Order 3912, # 100241), § 388-504-0470, filed 10/25/95, effective 11/25/95; 94-10-065 (Order 3732), § 388-504-0470, filed 5/3/94, effective 6/3/94.]

Chapter 388-505 WAC
ELIGIBILITY FACTORS COMMON TO MEDICAL PROGRAMS

WAC

WAC 388-505-0520 Citizenship and alien status. (1) The department shall provide Medicaid to an otherwise eligible person who is:

(a) A citizen of the United States; or

(b) A North American Indian born in Canada claiming fifty percent:

(i) Indian blood; or

(ii) Or less Indian blood and who has maintained United States residency since before December 25, 1952.

(c) An alien lawfully admitted for permanent residence or otherwise permanently residing under color of law (PRUCOL) in the United States; or

(d) An alien lawfully present in the United States according to sections 203 (a)(7), 207(c), 208, and 212 (d)(5) of the Immigration and Nationality Act (INA); or

(e) An alien granted lawful temporary residence, or permanent residence according to sections 245(a), 210, 210(f), and 210A of INA and sections 202 and 302 of the Immigration Reform and Control Act (IRCA), unless five years from the date Immigration and Naturalization Service (INS) grants lawful temporary resident status has not passed; or

(f) An alien approved by the INS under the family unity program, unless five years from the date INS grants lawful temporary resident status for the petitioning relative has not passed.

(2) When an alien as described under subsection (1)(e) or (f) of this section has not passed the five-year disqualification period, the department shall provide Medicaid to an otherwise eligible person when the alien is:

(a) Aged, blind, or disabled; or

(b) Seventeen years of age or under; or

(c) Pregnant; or

(d) A Cuban/Haitian entrant as defined in sections 501 (e)(1) and (2)(A) of P.L. 96-422.

(3) When an alien as described under subsection (1)(e) or (f) of this section is still under the five-year disqualification period, and is not described under subsection (2) of this section, the department shall provide medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-500-0005.

(4) For all other aliens, when such alien meets the eligibility requirements of a Medicaid program other than citizenship or alien status requirements, the department shall provide Medicaid as follows:

(a) Medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-500-0005; or

(b) For a pregnant woman:

(i) Medical care and services as described under subsection (a) of this section;

(ii) Maternity support services;

(iii) Maternity case management;

(iv) Transportation for maternity-related medical appointments; and

(v) Interpreter services for maternity-related medical appointments.

(5) Medical care services and children's health programs do not require citizenship/alien status.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-24-016 (Order 3923), § 388-505-0520, filed 11/22/95, effective 12/23/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-505-0520, filed 5/3/94, effective 6/3/94.]

WAC 388-505-0580 Resources. (1) To be eligible for a medical care program, a person's resources shall not exceed the specified limits of the appropriate eligibility standards for the appropriate medical care programs.

(2) The department shall consider resources available when the client or spouse:

(a) Owns the resource; and

(b) Has the authority to convert the resource to cash; and

(c) Is not legally restricted from using the resource for the person's support and maintenance.

(3) The department shall exempt noncash resources when the client:

(a) Applies for categorically needy or medically needy medical assistance; and

(b) Cannot convert the noncash resource to cash within twenty work days; and

(c) Makes an ongoing attempt to convert the noncash resources to cash.

(4) The department shall consider the availability of a sales contract under WAC 388-511-1160(2) for an SSI-related client.

(5) The department shall not consider the transfer of a resource when determining Medicaid eligibility for a person who is not institutionalized. For an institutionalized client, refer to WAC 388-513-1365.

(6) The department shall consider a client's resource as available on the first moment of the first month following receipt for an SSI-related client.

(7) The department shall consider income received in one month as a resource the first of the following month, unless specifically exempted for a longer period.

[Statutory Authority: RCW 74.08.090. 96-01-005 (Order 3932, # 100268), § 388-505-0580, filed 12/6/95, effective 1/6/96; 95-02-026 (Order 3817), § 388-505-0580, filed 12/28/94, effective 1/28/95; 94-10-065 (Order 3732), § 388-505-0580, filed 5/3/94, effective 6/3/94.]

WAC 388-505-0590 Income. (1) To be eligible for a medical care program, a person's countable income shall not exceed the specified limits of the eligibility standards for the appropriate medical care program unless:

(a) The program allows the spenddown of excess income;

(b) The program otherwise specifically provides for exceeding those limits; or

(c) In the case of medical assistance clients, eligibility for other programs has not yet been determined in accordance with WAC 388-522.

(2) For continuing cash assistance clients, the department shall find a person eligible for medical care programs without a separate eligibility determination.

(3) For a noncash assistance medical client, the department shall determine countable income according to AFDC or SSI methodology; except, the department shall:

(a) Consider the financial responsibility of relatives as described under WAC 388-506-0610 and 388-506-0620, and the financial responsibility of an alien sponsor under WAC 388-510-1030;

(b) Require a client to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which a client is entitled, unless the client can show good cause for not doing so. The client's annuities, pension, retirement, and disability benefits include, but are not limited to:

(i) Veteran's compensation and pensions;

(ii) OASDI benefits;

(iii) Railroad retirement benefits; and

(iv) Unemployment compensation.

(c) Allow child care expenses the client pays as an income deduction;

(d) Exempt earned income tax credit refunds and payments, received on or after January 1, 1991, during the month of receipt and the following month;

(e) Consider trusts as described under WAC 388-505-0595; and

(f) Consider a nonrecurring lump sum payment as:

(i) Income in the month in which the client receives the payment; and

(ii) A resource if the client retains the payment after the month of receipt.

(4) For an SSI-related client, the department shall determine countable income using SSI methodology except the department shall:

(a) Exclude lump sum payments as described under WAC 388-511-1160;

(b) Consider the principal and interest payment from a sales or real estate contract as described under WAC 388-511-1160 (2)(a) as unearned income; and

(c) Consider the interest payment from a sales or real estate contract as described under WAC 388-511-1160 (2)(b) as unearned income.

(5) For an AFDC-related noncash assistance medical client, the department shall determine countable income according to AFDC methodology; except, the department shall apply the exceptions in subsection (3) of this section and shall:

(a) Budget income prospectively as defined under WAC 388-218-1900;

(b) Not use mandatory monthly income reporting; and

(c) Consider the AFDC earned income exemption except as limited under WAC 388-507-0740.

[Statutory Authority: RCW 74.08.090. 95-17-031 (Order 3878), § 388-505-0590, filed 8/9/95, effective 9/9/95; 95-04-047 (Order 3827), § 388-505-0590, filed 1/25/95, effective 2/25/95; 94-10-065 (Order 3732), § 388-505-0590, filed 5/3/94, effective 6/3/94.]

Chapter 388-506 WAC
MEDICAL FINANCIAL RESPONSIBILITY

WAC

WAC 388-506-0610 AFDC-related medical programs. (1) When determining eligibility for medical programs, the department shall consider:

(a) The family unit living in the same household as including all family members when determining program relationship;

(b) A relative financially responsible only as follows:

(i) The natural or adoptive parent or stepparent to a child eighteen years of age or younger living in the same household; and

(ii) Spouse to spouse living in the same household.

(c) As a separate medical assistance unit (MAU) the following family member living in the same household, when a family member is not eligible for a categorically needy medical care program:

(i) A child with countable income;

(ii) A child with countable resources which render another family member ineligible for a Medicaid program;

(iii) A child in common of unmarried parents;

(iv) Each unmarried parent of a child in common with such parent's separate children, if any; or

(v) A nonresponsible caretaker relative.

(d) Categorically related family members, other than those described under subsection (1)(c) of this section, in the same MAU;

(e) A pregnant minor as not living in the same household as her parent regardless of whether she lives with her parent. See subsections (4)(b) and (5)(b) of this section; and

(f) A child, seventeen years of age and younger, in inpatient chemical dependency treatment or inpatient mental health treatment as living in the parent's or legal guardian's household, unless:

(i) An assessment by the department or its designee indicates inpatient treatment is likely to last ninety consecutive days or more;

(ii) The child is in a court-ordered out-of-home care in accordance with chapter 13.34 RCW; or

(iii) The department determines the parents are not exercising responsibility for the care and control of the child.

(2) The department shall consider income and resources jointly for spouses and spouses' children living in the same household unless the exceptions in subsection (1)(c) of this section are met. See WAC 388-506-0620 for the financial responsibility requirements for SSI-related clients.

(3) When determining eligibility for medical care, the department shall consider the countable income or resources of a child available only to the child when an exception in subsection (1)(c) of this section is met.

(4) The department shall consider the income of a parent of a child eighteen years of age or younger:

(a) Living in the same household, available to the child whether or not actually contributed. The department shall:

(i) Allow a parent one hundred percent of the Federal Poverty Level (FPL) for the parent and other members of the parent's MAU; and

(ii) Allocate income in excess of one hundred percent of the FPL on a prorated basis to all children eighteen years of age or younger in separate MAUs for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent the parent's income is actually contributed to the child.

(5) The department shall consider the resources of a parent of a child eighteen years of age or younger:

(a) Living in the same household, available to the child whether or not actually contributed. The department shall ensure a parent's countable resources are:

(i) Prorated; and

(ii) Allocated in equal shares to:

(A) The parent; and

(B) Each person for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent the parent's resources are actually contributed to the child.

(6) When determining medical care eligibility, the department shall not consider available, unless actually contributed to the client, the income and resources of a:

(a) Stepparent not legally liable for support of the stepchildren;

(b) Legal guardian other than the parent of the client;

(c) Caretaker other than the parent of the client;

(d) Alien sponsor;

(e) Sibling or child; or

(f) Spouse not living in the same household as the client.

(7) The department shall determine each MAU's medical care eligibility using:

(a) The MAU's countable income and resources;

(b) Household size for the number of persons in the MAU; and

(c) The income and resource standards that apply to the household size equal to the number of persons in the MAU.

(8) The department shall exempt one vehicle as described under WAC 388-216-2650, for each separate MAU that owns such vehicle.

(9) When the household contains an SSI-related family member who is ineligible for AFDC-related categorically needy Medicaid because of income or resources, that member shall be removed from the MAU and placed in a separate categorical assistance unit (CAU). The department shall determine eligibility for:

(a) The remaining members of the MAU without consideration of the income or resources of the SSI-related client; and

(b) The SSI-related member using SSI-related income and resource rules.

[Statutory Authority: RCW 74.08.090 and 1995 c 312 § 48. 95-19-007 (Order 3895), § 388-506-0610, filed 9/6/95, effective 10/7/95. Statutory Authority: RCW 74.08.090. 95-10-025 (Order 3847), § 388-506-0610, filed 4/26/95, effective 5/27/95; 94-17-034 (Order 3767), § 388-506-0610, filed 8/10/94, effective 9/10/94; 94-10-065 (Order 3732), § 388-506-0610, filed 5/3/94, effective 6/3/94.]

Chapter 388-507 WAC
AFDC-RELATED MEDICAL ELIGIBILITY

WAC

388-507-0710 AFDC-related medical income standards.

WAC 388-507-0710 AFDC-related medical income standards. (1) The department shall determine income standards for AFDC-related clients as described under WAC 388-505-0590 (2) and (4).

(2) Effective January 1, 1995, the department shall set the medically needy income level (MNIL) at:

(a) One person	$ 486
(b) Two persons	$ 592
(c) Three persons	$ 667
(d) Four persons	$ 742
(e) Five persons	$ 858
(f) Six persons	$ 975
(g) Seven persons	$1,125
(h) Eight persons	$1,242
(i) Nine persons	$1,358
(j) Ten persons and above	$1,483

[Statutory Authority: RCW 74.08.090 and Title XIX State Agency Letter 94-49, notice of increase in SSI level. 95-05-022 (Order 3832), § 388-507-0710, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-507-0710, filed 5/3/94, effective 6/3/94.]

Chapter 388-508 WAC
PREGNANT WOMEN MEDICAL ELIGIBILITY

WAC

388-508-0805 Pregnant woman—Income standards.

388-508-0820 Pregnant woman—Eligibility.

WAC 388-508-0805 Pregnant woman—Income standards. (1) The department shall find a pregnant woman eligible for Medicaid as categorically needy when the pregnant woman meets the income requirements of this section.

(2) The department shall ensure total family income will not exceed one hundred eighty-five percent of the Federal Poverty Level (FPL). One hundred eighty-five percent of the current FPL is:

Family Size	Monthly Income
(a) One	$1,152
(b) Two	$1,547

(c) Three	$1,941
(d) Four	$2,336
(e) Five	$2,731
(f) Six	$3,125
(g) Seven	$3,520
(h) Eight	$3,915

(i) For family units with nine members or more, add $395 to the monthly income for each additional member.

[Statutory Authority: RCW 74.08.090. 95-11-045 (Order 3848), § 388-508-0805, filed 5/10/95, effective 6/10/95; 94-10-065 (Order 3732), § 388-508-0805, filed 5/3/94, effective 6/3/94.]

WAC 388-508-0820 Pregnant woman—Eligibility. (1) The department shall find a pregnant woman eligible for Medicaid as categorically needy when the pregnant woman meets:

(a) The income requirements under WAC 388-508-0805; and

(b) Social Security number and residence requirements under chapter 388-505 WAC.

(2) For the purposes of determining only medical eligibility, a pregnant woman means a woman whose pregnancy has been confirmed in writing by:

(a) A licensed medical practitioner; or

(b) An authorized employee of a:

(i) Licensed laboratory;

(ii) Community clinic;

(iii) Family planning clinic; or

(iv) Health department clinic.

(3) The department shall determine family income according to AFDC methodology; except, the department shall:

(a) Exclude the income of the unmarried father of the unborn unless the income is actually contributed; and

(b) Determine eligibility as if the unborn is born.

(4) The department shall consider the provisions of WAC 388-506-0610 (1)(e) in determining countable income for a pregnant minor.

(5) The department shall exempt a pregnant, undocumented alien woman from citizenship, alien status, and Social Security number requirements.

[Statutory Authority: RCW 74.08.090. 95-16-058 (Order 3874), § 388-508-0820, filed 7/26/95, effective 8/26/95; 94-10-065 (Order 3732), § 388-508-0820, filed 5/3/94, effective 6/3/94.]

Chapter 388-509 WAC
CHILDREN'S MEDICAL ELIGIBILITY

WAC

WAC 388-509-0920 Children's health program. (1) The department shall consider a child seventeen years of age or younger, eligible for state-funded medical services with the same coverage as categorically needy, when:

(a) The child is not eligible for a federally-funded Medicaid program; and

(b) The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under subsection (4) of this section.

(2) The department shall determine nonexempt family income by:

(a) Following AFDC methodology; and

(b) Applying the medical income rules as described under WAC 388-506-0610.

(3) The department shall not require a child to meet the following eligibility factors:

(a) Citizenship;

(b) Social Security number; or

(c) Resources limits.

(4) The department shall find that one hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	$ 623
(b) Two	$ 836
(c) Three	$1,050
(d) Four	$1,263
(e) Five	$1,476
(f) Six	$1,690
(g) Seven	$1,903
(h) Eight	$2,116

(i) For family units with more than eight members, add $214 to the monthly income for each additional member.

[Statutory Authority: RCW 74.08.090. 95-11-056 (Order 3848A), § 388-509-0920, filed 5/11/95, effective 6/11/95; 94-17-036 (Order 3769), § 388-509-0920, filed 8/10/94, effective 9/10/94; 94-10-065 (Order 3732), § 388-509-0920, filed 5/3/94, effective 6/3/94.]

WAC 388-509-0960 Children's income standards. (1) The department shall determine a child meeting the eligibility requirements under WAC 388-509-0910 eligible as categorically needy when the total family countable income does not exceed two hundred percent of the federal poverty level (FPL). The department shall find that two hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	$1,245
(b) Two	$1,672
(c) Three	$2,099
(d) Four	$2,525
(e) Five	$2,952
(f) Six	$3,379
(g) Seven	$3,805
(h) Eight	$4,232

(i) For family units with more than eight members, add $427 to the monthly income for each additional member.

(2) For a child determined eligible under WAC 388-509-0910, the department shall not consider a change in family income during the certification period.

[Statutory Authority: RCW 74.08.090. 95-11-056 (Order 3848A), § 388-509-0960, filed 5/11/95, effective 6/11/95. Statutory Authority: RCW 74.08.090 and Letter from HCFA approving State Plan Transmittal 94-21. 95-05-023 (Order 3833), § 388-509-0960, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 74.08.090. 94-17-036 (Order 3769), § 388-509-0960, filed 8/10/94, effective 9/10/94; 94-10-065 (Order 3732), § 388-509-0960, filed 5/3/94, effective 6/3/94.]

Chapter 388-511 WAC
SSI-RELATED MEDICAL ELIGIBILITY

WAC

WAC 388-511-1105 SSI-related eligibility requirements. (1) For the purposes of SSI-related medical assistance, the client shall be:

(a) Sixty-five years of age or over; or

(b) Blind with:

(i) Central visual acuity of 20.200 degrees or less in the better eye with the use of a correcting lens; or

(ii) A limitation in the fields of vision so the widest diameter of the visual field subtends an angle no greater than twenty degrees; or

(c) Disabled.

(i) Decisions on SSI-related disability are the responsibility of the medical assistance administration (MAA) and shall be subject to the authority of:

(A) Federal statutes and regulations codified at 42 U.S.C. Sec 1382c and 20 C.F.R. Parts 404 and 416, as amended; or

(B) Controlling federal court decisions which define the OASDI and SSI disability standard and determination process.

(ii) For MAA's purposes, "disabled" means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which:

(A) Can be expected to result in death; or

(B) Has lasted or can be expected to last for a continuous period of not less than twelve months.

(iii) In the case of a child seventeen years of age or younger, if the child suffers from any medically determinable physical or mental impairment of comparable severity.

(2) When a person has applied for Title II or Title XVI benefits and the SSA has denied the person's application solely because of a failure to meet Title II and Title XVI blindness or disability criteria, the SSA denial shall be binding on the department, unless the applicant's:

(a) SSA denial is under appeals in the reconsideration stage, the SSA's administrative hearing process, or the SSA's appeals council; or

(b) Medical condition has changed since the SSA denial was issued.

(3) The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse shall not be eligible for Medicaid as categorically needy. Such ineligible spouse may be eligible for medically needy.

(4) The client shall be resource eligible under WAC 388-511-1110 on the first day of the month to be eligible for any day or days of that month. The department shall make a resource determination of the first moment of the first day of the month. The department shall determine changes in the amount of a client's countable resources during a month do not affect eligibility or ineligibility for that month. Refer to WAC 388-513-1395 for an institutionalized client.

(5) The department shall consider a client under 1619(b) of the Social Security Act as eligible for SSI.

(6) The department shall provide a resident of Washington requiring medical assistance outside the United States care according to WAC 388-501-0180.

[Statutory Authority: RCW 74.08.090, P.L. 100-383, AFDC Transmittal Memo, POMS 830.100, 830.115, 830.725 and 1130.605. 95-08-070 (Order 3845), § 388-511-1105, filed 4/5/95, effective 5/6/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-511-1105, filed 5/3/94, effective 6/3/94.]

WAC 388-511-1140 SSI-related income exemptions. (1) The department shall exempt:

(a) Any public agency's refund of taxes paid on real property or on food;

(b) State public assistance and supplemental security income (SSI) based on financial need;

(c) Any portion of a grant, scholarship, or fellowship used to pay tuition, fees, or other necessary educational expense at an educational institution;

(d) Income that a client does not reasonably anticipate, or receives infrequently or irregularly, when such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) Any amount a client receives for the foster care of a child who lives in the same household, if the child is not SSI-eligible and was placed in such home by a public or nonprofit child placement or child care agency;

(f) One-third of any payment for child support a parent receives from an absent parent for a minor child who is not institutionalized;

(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded in subsection (1)(a) through (f) of this section, for a client at home. The department shall consider the exemption only once for a husband and wife. The department shall not apply such exemption on income paid on the basis of an eligible person's needs, which is totally or partially funded by the federal government or a private agency;

(h) Tax exempt payments Alaska natives receive under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments exempted under other statutes;

(j) Compensation provided to volunteers in ACTION programs established by P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(k) From the income of a single SSI-related parent or a married SSI-related parent whose spouse does not have income, an amount to meet the needs of an ineligible minor child living in the household of SSI-related parent. See WAC 388-506-0630 when the SSI-related client has a spouse with income. The exemption is one-half of the one-person Federal Benefit Rate (FBR) less any income of the child;

(l) Veteran's benefits designated for the veteran's:

(i) Dependent; or

(ii) Aid and attendance/housebound allowance and unusual medical expense allowance (UME). For an institutionalized client, see WAC 388-513-1345;

(m) Title II Social Security Administration benefits. The department shall:

(i) Determine current client eligibility for categorically needy medical assistance under WAC 388-503-0310(4), including all Title II cost-of-living adjustment (COLA) benefit increases received by the:

(A) Client since termination from SSI/SSP; or

(B) Client's spouse and/or other financially responsible family member living in the same household during the time period under (m)(i) of this subsection.

(ii) Consider the total of the COLA benefit increases and the Title II Social Security Administration benefits in computing the client's participation in the cost of the institutionalized client's care.

(n) A fee a guardian or representative payee charges as reimbursement for providing services, when such services are a requirement for the client to receive payment of the income;

(o) Income an ineligible or nonapplying spouse receives from a governmental agency for services provided to an eligible client such as chore services;

(p) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(q) Restitution payment and any interest earned from such payment to a person of Japanese or Aleut ancestry under P.L. 100-383;

(r) The amount of the expenses directly related to a client's impairment that allows the permanently and totally disabled client to continue to work;

(s) The amount of the blindness-related work expenses of a blind client;

(t) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identified burial funds set aside on or after November 1, 1982;

(u) Earned income tax credit (EITC);

(v) Crime victim's compensation funds;

(w) Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201;

(x) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act. Interest earned on this income is not exempt;

(y) Payments to the injured person, the surviving spouse, children, grandchildren, or grandparents under the Radiation Exposure Compensation Act; and

(z) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall consider the earned interest from such payments as countable income;

(aa) Payments from the Dutch government, under the Netherlands' Act on Benefits for Victims of Persecution (WUV). The department shall consider interest earned on such payments as countable income; and

(bb) Up to two thousand dollars per year derived from an individual interest in Indian trust or restricted land.

(2) Unless income is contributed to the client, the department shall exempt all earned income of an ineligible or nonapplying person twenty years of age and under who is a student regularly attending a school, college, university, or pursuing a vocational or technical training designed to prepare the student for gainful employment.

(3) For the SSI-related client, the department shall exempt the first sixty-five dollars per month of earned income not excluded according to subsection (1) of this section, plus one-half of the remainder.

(4) The department shall exempt as income the unearned income amounts withheld due to garnishment under a court, administrative, or agency order.

(5) The department shall exempt as income the unearned income amounts which represent an essential expense incurred in receiving the unearned income.

[Statutory Authority: RCW 74.08.090, P.L. 100-383, AFDC Transmittal Memo, POMS 830.100, 830.115, 830.725 and 1130.605. 95-08-070 (Order 3845), § 388-511-1140, filed 4/5/95, effective 5/6/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-511-1140, filed 5/3/94, effective 6/3/94.]

WAC 388-511-1160 SSI-related resource exemptions. (1) The department shall exempt the following resources in determining eligibility for medical care programs:

(a) Home;

(i) "Home" means any shelter:

(A) In which a client has ownership interest; and

(B) The client uses as the principal place of residence. The department shall only consider one home as the client's principal place of residence.

(ii) The client's absence from the home shall not affect the home exemption. The client's home shall remain the principal place of residence as long as:

(A) The client intends to return home. The department shall accept the client's statement of intent without challenge; or

(B) A client's spouse or dependent relative uses the home during the client's absence. The department shall:

(I) Consider a person a dependent relative when such a person is either financially or medically dependent on the client; and

(II) Accept the client's or dependent relative's written statement of dependency or relationship unless the department has reason to question such statement.

(iii) The department shall exempt the proceeds from the sale of the home providing the client uses the proceeds to purchase another home within three months of the receipt of the proceeds. Proceeds include real estate contracts, or any similar home financing arrangements, and the income produced.

(iv) The department shall evaluate transfers of the home by an institutional client or client's spouse under WAC 388-513-1365;

(b) Household goods and personal effects;

(c) Vehicle; the department shall:

(i) Exempt one vehicle regardless of its value if, for the client or a member of the client's household, the vehicle is:

(A) Necessary for employment; or

(B) Necessary for the treatment of a specific or regular medical problem; or

(C) Modified for operation by, or transportation of, a handicapped person; or

(D) Necessary due to climate, terrain, distance, or similar factors to provide the client transportation to perform essential daily activities.

(ii) Exempt one of the client's vehicles to the extent its current market value does not exceed four thousand five hundred dollars;

(iii) Count any excess against the resource limit;

(iv) Exempt a vehicle under this subsection only if a vehicle is not exempt under (c)(i) of this subsection;

(v) Treat the client's ownership of other vehicles as nonexempt resources and count the equity value toward the resource limit.

(d) Property essential to self-support. The department shall exempt:

(i) Property regardless of value, when the client uses the property:

(A) In a trade or business;

(B) As an employee for work; or

(C) As authorized by the government for income-producing activity.

(ii) Nonbusiness property up to six thousand dollars equity, when the client uses the property for producing goods or services essential to daily activities, solely for the client's household;

(iii) Nonbusiness property up to six thousand dollars equity, when the client uses the property to produce an annual income return of six percent or more of the exempt equity or is expected to produce at least a six percent return within a twenty-month period as long as the client:

(A) Currently uses the property in the activities described in subsection (1)(d) of this section; or

(B) Is expected to resume using the property in the activities described in subsection (1)(d) of this section within twelve months;

(e) Resources necessary to fulfill an approved plan for a blind or disabled client to achieve self-support as long as such plan remains in effect;

(f) Alaska Native Claims Settlement Act:

(i) Shares of stock held in a regional or village corporation;

(ii) Cash received from a native corporation, including cash dividends on stock received from a native corporation to the extent the cash does not exceed two thousand dollars per person per year;

(iii) Stock issued or distributed by a native corporation as a dividend or distribution on the stock;

(iv) A partnership interest;

(v) Land or an interest in land, including land or an interest in land received from a native corporation, as a dividend or distribution on stock;

(vi) An interest in a settlement trust.

(g) Life insurance:

(i) The department shall exempt the total cash surrender value when the total face value of all policies held by each person is one thousand five hundred dollars or less;

(ii) The cash surrender value applies to the resource limit under WAC 388-511-1110 if the face value of all policies held by each person is over one thousand five hundred dollars; and

(iii) When determining total face value in subsection (1)(g)(i) of this section, the department shall not include term or burial insurance with no cash surrender value.

(h) Restricted allotted land owned by an enrolled tribal member and spouse, if married, if such land cannot be sold, transferred, or otherwise disposed of without the permission of other persons, the tribe, or an agency of the federal government;

(i) Insurance settlements the client receives from an insurance company for purposes of repairing or replacing a resource providing the client uses the total amount of the cash to repair or replace the exempt resource within nine months. The department may extend the nine-month period based on circumstances beyond the control of the client to a maximum of nine additional months. The department shall consider any cash not used within the time period as an available resource;

(j) Burial spaces for the client, the client's spouse, or any member of the client's immediate family.

(i) The department shall consider burial spaces includes conventional grave sites, crypts, mausoleums, urns, and other repositories customarily and traditionally used for the remains of deceased persons.

(ii) The department shall consider burial spaces as including a burial space purchase agreement as well as any interest accrued on and left to accumulate as part of the value of the burial space purchase agreement.

(iii) For purposes of subsection (1)(j) and (k) of this section, "immediate family" means a client's minor and adult children, including adopted children and stepchildren; a client's brothers, sisters, parents, adoptive parents, and the spouses of those persons. The department shall not consider dependency or living-in-the-same-household as factors in determining whether a person is an immediate family member;

(k) Burial funds:

(i) The department shall ensure funds specifically set aside for the burial arrangements of a client or the client's spouse not exceed one thousand five hundred dollars for each spouse. The department shall count burial funds in excess of this limit toward the resource limit in WAC 388-511-1110.

(ii) The department shall require funds set aside for burial expenses to be kept separate from all other resources and separately identified and designated as set aside for burial. If the exempt burial funds are mixed with other resources, the department shall not apply this exemption to any portion of the funds unless the client intends to use the nonexempt funds for burial-related items or services. The department may exempt designated burial funds retroactively back to the first day of the month in which the person intended the funds to be set aside for burial.

(iii) Funds set aside for burial include revocable burial contracts, burial trusts, other burial arrangements, cash, accounts, or other financial instruments with a definite cash value the person clearly designates as set aside solely for the person's or spouse's burial expenses.

(iv) The department shall reduce the one thousand five hundred dollar exemption by:

(A) The face value of the client's insurance policies owned by the person or spouse on the life of the person if the policies have been exempted as provided in subsection (1)(g) of this section; and

(B) Amounts in an irrevocable burial trust.

(v) The department shall exempt the interest earned on exempt burial funds and appreciation in the value of exempt burial arrangements if the exempt interest and appreciation are left to accumulate and become part of the separately identified burial fund.

(vi) When used for other purposes, the department shall consider as available income any exempt burial funds, interest, or appreciated values set aside for burial expenses if, at the first of the month of use, when added to other nonexempt resources, the total exceeds the resource limit;

(l) Other resources considered exempt by federal statute;

(m) Retroactive SSI payments, including benefits a client receives under the interim assistance reimbursement agreement with the Social Security Administration, or OASDI payments for six months following the month of receipt. This exemption applies to:

(i) Payments received by the client, spouse, or any other person received that the department considers available to meet the client's needs;

(ii) SSI payments made to the client for benefits due for a month before the month of payment;

(iii) OASDI payments made to the client for benefits due for a month that is two or more months before the month of payment; and

(iv) Payments that remain in the form of cash, checking accounts, or saving accounts. The department shall not apply this exemption once the retroactive payment has been converted to any other form.

(n) Payments for medical or social services, for one-calendar month following the month of receipt, certain cash payments an SSI person receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(o) Restitution payment and any interest earned from such payment to persons of Japanese or Aleut ancestry relocated and interned during war time, under P.L. 100-383;

(p) The annuity payment of trust funds to Puyallup Tribal Indians received under P.L. 101-41;

(q) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201;

(r) Payments from the Dutch government under the Netherlands' Act on Benefits for Victims of Persecution (WUV). See WAC 388-511-1140 (1)(aa) for the treatment of interest earned on such payment.

(s) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act. Interest earned on conserved payment is not exempt;

(t) Unspent assistance payments the client receives because of a presidential declaration of a major disaster, under P.L. 93-288, are exempt for nine months from the date of receipt.

(i) The department shall determine the exemption may extend an additional nine months, if circumstances beyond the client's control:

(A) Prevents the client from repairing or replacing the damaged or destroyed property; or

(B) Keeps the client from contracting for such repair or replacement.

(ii) Interest earned on the exempt resource is exempt for the period the exemption applies;

(u) Earned income tax credit refunds and payments are exempt during the month of receipt and the following month;

(v) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt;

(w) Payments, or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents;

(x) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall:

(i) Not consider such payments as income or resources for determining eligibility or post-eligibility; and

(ii) Count the interest from such payments as unearned income for the client.

(2) The department shall consider a sales contract:

(a) An exempt resource when the current market value of the contract:

(i) Is zero or the contract is unsalable; or

(ii) When combined with other resources, exceeds the resource limit, and the sales contract was executed:

(A) On or before November 30, 1993; or

(B) On or after December 1, 1993, and:

(I) Was received as compensation for the sale of the client's principal place of residence. For an institutionalized client, this rule shall apply only to the client's principal place of residence before institutionalization of the client; and

(II) Provides for an interest rate within prevailing rates at the time of the sale; and

(III) Requires the repayment of a principal amount equal to the fair market value of the property; and

(IV) Payment on the amount owed does not exceed thirty years.

(iii) The department shall consider payment of principal and interest on a sales contract meeting the criteria of subsection (2)(a)(i) or (ii) of this section under WAC 388-505-0590 (3)(b);

(b) An available resource when the current market value of a sales contract does not meet the requirements in subsection (2)(a)(i) or (ii) of this section. For a sales contract the department determines to be an available resource, the department shall consider the payment that represents:

(i) Principal, an available resource; and

(ii) Interest, under WAC 388-505-0590 (3)(c).

(c) An available resource when transferred by the client to a person other than the client's spouse. See WAC 388-513-1365; and

(d) An exempt resource to the extent the proceeds from the sale of a home are used to purchase another home. The department shall not consider payments received under such sales contract as income as described under subsection (1)(a)(iii) of this section.

(3) The department shall consider cash received from the sale of an exempt resource as a nonexempt resource to the extent that the cash is not:

(a) Used to replace an exempt resource; or

(b) Invested in an exempt resource within the same month, unless specified differently under this section.

[Statutory Authority: RCW 74.08.090, P.L. 100-383, AFDC Transmittal Memo, POMS 830.100, 830.115, 830.725 and 1130.605. 95-08-070 (Order 3845), § 388-511-1160, filed 4/5/95, effective 5/6/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-511-1160, filed 5/3/94, effective 6/3/94.]

Chapter 388-513 WAC
CLIENT NOT IN OWN HOME—INSTITUTIONAL MEDICAL

WAC

WAC 388-513-1300 Applicability of alternate living and institutional rules. (1) The department shall determine sections WAC 388-513-1305 and 388-513-1310 of this chapter apply to persons in alternate living situations.

(2) The department shall determine all sections other than WAC 388-513-1305 of this chapter apply to institutionalized persons as described under WAC 388-513-1365 (1)(f).

[Statutory Authority: RCW 74.08.090. 95-06-025 (Order 3834), § 388-513-1300, filed 2/22/95, effective 3/25/95.]

WAC 388-513-1315 Eligibility determination—Institutional. (1) The department shall find a person residing in or expected to reside in a Medicaid-approved medical facility for at least thirty consecutive days eligible for institutional care, if the person:

(a) Is Title XVI-related with gross income:

(i) Equal to or less than three hundred percent of SSI Federal Benefit Amount. The department shall determine a person's eligibility under the categorically needy program; and

(ii) Greater than three hundred percent of SSI federal benefit amount. The department shall determine a person's eligibility under the limited casualty program—medically needy program as determined under WAC 388-513-1395.

(b) Does not have nonexcluded resources, under WAC 388-513-1360 and 388-513-1365, greater than limitations under WAC 388-513-1310 and 388-513-1395(2).

(c) Is not subject to a period of ineligibility for transferring of resources under WAC 388-513-1365.

(2) The department shall determine institutional facility residents eligible for institutional care when the amount of the resources in excess of the amount in WAC 388-513-1310 plus countable income are less than the nursing facility private rate plus verifiable recurring medical expenses.

(3) The department shall allocate a client's income and resources as described under WAC 388-513-1380.

(4) When both spouses are institutionalized, the department shall determine the eligibility of each spouse individually.

(5) The department shall determine eligibility for a person residing or expected to reside in a Medicaid-approved medical facility less than thirty consecutive days as for a noninstitutionalized person.

(6) The department shall determine eligibility for an AFDC-related child under eighteen years of age residing in inpatient chemical dependency treatment or inpatient mental health treatment as described under WAC 388-506-0610 (1)(f).

(7) For an institutionalized person twenty years of age or under, the department shall not consider the income and resources of the parents available unless the income and resources are actually contributed.

(8) The department shall not consider a person's transfer between medical institutions as a change in institutionalized status.

(9) For the effect of a social absence from an institutional living arrangement, see WAC 388-88-115.

[Statutory Authority: RCW 74.08.090 and 1995 c 312 § 48. 95-19-007 (Order 3895), § 388-513-1315, filed 9/6/95, effective 10/7/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-513-1315, filed 5/3/94, effective 6/3/94.]

WAC 388-513-1350 Institutional—Available resources. (1) Resources are defined under chapter 388-511 WAC for an SSI-related client and under WAC 388-22-030 for an AFDC-related client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-513-1310, 388-513-1330, 388-513-1340, and 388-513-1360. Transfers of resources are evaluated under WAC 388-513-1365.

(3) The department shall determine ownership of resources following Washington state community property principles for a person:

(a) Whose most recent period of institutionalization began on or before September 30, 1989; and

(b) Who remains continuously institutionalized.

(4) For purposes of Medicaid eligibility, the department shall consider resources are:

(a) Community resources when jointly held in the:

(i) Names of both the institutionalized and community spouse; or

(ii) Name of the institutionalized spouse only.

(b) The separate property of the community spouse when:

(i) Held in the separate name of the community spouse; or

(ii) Transferred between spouses as described under WAC 388-513-1370(6).

(5) The department shall:

(a) Divide by two, the total value of the community resources the spouses own; and

(b) Assign one-half of the total value of the community resources to each spouse.

(6) The department shall not consider a person continuously institutionalized if, for thirty consecutive days, the person:

(a) Is absent from an institution; or

(b) Does not receive home-based or community-based waivered services.

(7) For the purpose of determining Medicaid eligibility of a person, whose most recent continuous period of institutionalization starts on or after October 1, 1989, the department shall:

(a) Exclude resources as described under WAC 388-511-1160; except, the department shall exempt one vehicle without regard to use or value when the institutionalized person has a community spouse;

(b) Consider available to the community spouse, resources in the name of either the community spouse or the institutionalized spouse, except resources exceeding the greater of:

(i) Seventy-four thousand eight hundred twenty dollars effective January 1, 1995;

(ii) An amount established by a fair hearing under chapter 388-08 WAC when the community spouse's resource allowance is inadequate to provide a minimum monthly maintenance needs allowance; or

(iii) An amount ordered transferred to the community spouse by the court.

(c) Ensure resources available to the community spouse are in the name of the community spouse or transferred to the community spouse or to another person for the sole benefit of the community spouse:

(i) Before the first regularly scheduled eligibility review; or

(ii) As soon as practicable thereafter, taking into account such time as may be necessary to obtain a court order for the support of the community spouse.

(d) Consider resources greater than such resources described under subsection (7)(b) of this section available to the institutional spouse.

(8) The department shall consider resources of the community spouse:

(a) Unavailable to the institutionalized spouse:

(i) The month after the institutionalized spouse is determined eligible for institutional benefits; and

(ii) While the institutionalized spouse remains in a continuous period of institutionalization.

(b) Available to the institutionalized spouse when the institutionalized spouse:

(i) Acquires resources which, when added to resources held by the institutionalized spouse, exceed the one-person resource maximum, if the most recent period of institutionalization began on or after October 1, 1989; or

(ii) Has a break of thirty days or more in a period of institutionalization.

[Statutory Authority: RCW 74.08.090 and Title XIX State Agency Letter 94-49, notice of increase in SSI level. 95-05-022 (Order 3832), § 388-513-1350, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 74.08.090. 94-23-129 (Order 3808), § 388-513-1350, filed 11/23/94, effective 12/24/94; 94-10-065 (Order 3732), § 388-513-1350, filed 5/3/94, effective 6/3/94.]

WAC 388-513-1380 Institutional—Participation. (1) In reducing payment to the institution, the department shall consider the institutionalized client's:

(a) Income under WAC 388-513-1330 (3)(a), (b), (c), and (d); and

(b) Resources under WAC 388-513-1350, 388-513-1360, and 388-513-1365.

(2) In reducing payment to the institution, the department shall consider the eligible institutionalized client's excess resources available to meet the cost of care after the following allocations:

(a) Health insurance and Medicare premiums, deductions, and co-insurance not paid by a third party; and

(b) Noncovered medical bills which are the liability of the client and not paid by a third party.

(3) The department shall not use allocations used to reduce excess resources under subsection (2) of this section to reduce income under subsection (4) of this section.

(4) The department shall deduct the following amounts, in the following order, from the institutionalized client's total income, including amounts disregarded in determining eligibility:

(a) Specified personal needs allowance as follows:

(i) One hundred sixty dollars for a veteran living in a Medicaid-certified state veteran's home nursing facility;

(ii) Ninety dollars for a single veteran receiving an improved veteran's pension; or

(iii) Forty-one dollars and sixty-two cents for all other clients in medical institutions.

(b) Federal, state, or local income taxes:

(i) Mandatorily withheld from earned or unearned income for income tax purposes before receipt by the client;

(ii) Not covered by withholding, but are owed or have been paid by the client; and

(iii) Does not exceed the one-person medically needy income level less the client's personal needs allowance.

(c) Wages not to exceed the one-person medically needy income level less the client's personal needs allowance for a client who:

(i) Is SSI-related; and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction, the department shall:

(A) Not allow a deduction for employment expenses; and

(B) Apply the client's wages not deducted under this subsection to the client's cost of care.

(d) An amount an SSI or AFDC client in a medical facility receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance.

(e) A monthly needs allowance for the community spouse not to exceed one thousand eight hundred seventy-one dollars, unless specified in subsection (6) of this section. The department shall ensure the monthly needs allowance is:

(i) An amount added to the community spouse's gross income to provide a total community spouse's income of one thousand two hundred fifty-eight dollars; and

(ii) Excess shelter expenses as specified under subsection (5) of this section.

(f) An amount for the maintenance needs of each dependent family member residing with the community spouse:

(i) Equal to one-third of the amount one thousand two hundred fifty-four dollars exceeds the family member's income. Child support received from an absent parent is the child's income.

(ii) **"Family member"** means a:

(A) Dependent or minor child;

(B) Dependent parent; or

(C) Dependent sibling of the institutionalized or community spouse.

(g) When an institutional client does not have a community spouse, an amount for the maintenance needs of family members residing in the client's home equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents.

(h) Amounts for incurred medical expenses not subject to third-party payment including, but not limited to:

(i) Health insurance premiums, coinsurance, or deductible charges; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(i) Maintenance of the home of a single person or couple:

(i) Up to one hundred eighty dollars per month;

(ii) Limited to a six-month period; and

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) Social service staff shall document initial need for the income exemption and review the person's circumstances after ninety days.

(5) For the purposes of this section, the department shall:

(a) Determine shelter expenses to be the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard allowance for utilities, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) Consider the standard shelter allocation to be three hundred seventy-seven dollars, effective April 1, 1995.

(c) Consider as "excess shelter expenses" an amount equal to the actual expenses under subsection (5)(a) of this section less the standard shelter allocation under subsection (5)(b) of this section.

(6) The department shall determine the amount the institutional spouse allocates to the community spouse may only be greater than the amount in subsection (4)(d)(i) of this section when:

(a) A court enters an order against the institutionalized client for the community spouse support; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(7) The client shall use the income remaining after allocations specified in subsection (4) of this section toward payment of the client's cost of care at the department rate.

(8) SSI-related clients.

(a) SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility when the:

(i) Stay in the institution or facility is not expected to exceed three months; and

(ii) SSI-related clients plan to return to former living arrangements.

(b) The department shall not consider the SSI payment when computing the client's participation amount.

(9) The department shall not consider income from reparation payments made by the Federal Republic of Germany when computing the client's participation amount.

[Statutory Authority: RCW 74.08.090. 95-11-045 (Order 3848), § 388-513-1380, filed 5/10/95, effective 6/10/95. Statutory Authority: RCW 74.08.090 and Title XIX State Agency Letter 94-49, notice of increase in SSI level. 95-05-022 (Order 3832), § 388-513-1380, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-513-1380, filed 5/3/94, effective 6/3/94.]

WAC 388-513-1395 Institutional—Medically needy. (1) The department shall consider a person institutionalized when the person resides in or is expected to reside in a medical facility for thirty consecutive days or more.

(a) The department shall determine:

(i) An SSI/SSP-related person in a medical facility as medically needy when the person's gross income exceeds three hundred percent of the SSI benefit amount;

(ii) An AFDC-related child in a medical facility as medically needy if countable income exceeds the one-person AFDC grant standard; and

(iii) An AFDC-related adult as ineligible.

(b) The department shall determine a client ineligible for the medically needy program when the countable income is more than the private nursing facility rate plus verifiable recurring medical expenses.

(c) The department shall determine countable income of a medically needy client residing in a nursing facility by deducting the following amounts from gross income:

(i) Amounts that would be deducted in determining eligibility for AFDC or SSI/SSP; and

(ii) Previously incurred medical expenses not subject to third-party payment and which are the current liability of the client.

(d) The department shall determine a client eligible for nursing facility care when the client's countable income and the amount of resources in excess of the amount in WAC 388-513-1310 are less than the department's contracted rate plus verifiable recurring medical expenses. These clients shall:

(i) Participate in the cost of nursing facility care per WAC 388-513-1380 for post-eligibility allocation of income and post-eligibility allocation of resources; and

(ii) Be certified for three or six months at the client's option.

(e) The department shall determine a client eligible for nursing facility care when the client's countable income and the amount of resources in excess of the amount in WAC 388-513-1310 are:

(i) Less than the private nursing facility rate plus recurring medical expenses; but

(ii) More than the department's contracted rate.

(f) The client shall:

(i) Participate in the cost of nursing facility care. See WAC 388-513-1380 for post-eligibility allocation of income;

(ii) Spenddown all income remaining after allocating income to the department's contracted rate to be eligible for nonnursing facility medical care. The department shall only certify medical assistance for noninstitutional eligibility after spenddown has been met; and

(iii) Choose a certification period of three or six months for nursing facility care. The department shall determine spenddown of a person's nonnursing facility medical expenses be on a three-month or six-month basis.

(g) For the effect of a social absence from an institutional living arrangement, see WAC 388-88-115.

(h) The department shall not change a client's institutional status when the client is transferred between institutions.

(2) The department shall use other SSI financial criteria for consideration of resources as defined in WAC 388-513-1310 and 388-513-1360.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18 §§ 2095a and 5b. 95-24-017 (Order 3921, #100267), § 388-513-1395, filed 11/22/95, effective 1/1/96. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-513-1395, filed 5/3/94, effective 6/3/94.]

Chapter 388-515 WAC
ALTERNATE LIVING—INSTITUTIONAL MEDICAL

WAC

WAC 388-515-1505 Community options program entry system (COPES). (1) The department shall determine a person eligible for COPES when a person is eighteen years of age or over and:

(a) Meets the categorically needy eligibility requirements for an SSI-related institutionalized person. For the purposes of COPES, a person is considered institutionalized as of the date all eligibility criteria, except institutionalized status, is met;

(b) Requires the level of care provided in a nursing facility;

(c) Has a department-approved plan of care that meets the eligibility requirements for COPES personal care as described under WAC 388-15-610 (1)(f); and

(d) Is able and chooses to reside at home with community support services, in a:

(i) Congregate care facility (CCF);

(ii) Licensed adult family home (AFH); or

(iii) Licensed boarding home (LBH).

(e) Is institutionalized, or the department determines is likely to be institutionalized within the next thirty days in the absence of waivered services under WAC 388-15-615.

(2) The department shall not require participation in the cost of COPES care by a person:

(a) Receiving SSI; or

(b) Remaining eligible for SSI under 1619(b) of the Social Security Act, but not receiving a cash grant.

(3) The department shall allocate available income of the SSI-related COPES client as described under WAC 388-513-1380 (1), (2), (3), (4)(b), (c), (d), (e), (f), (g), and (h), (5), and (6). The client shall retain an amount for maintenance needs as follows:

(a) For a single person or a married person not living with a community spouse, one hundred percent of the one-person Federal Poverty Level (FPL);

(b) For a married couple who are both receiving COPES, one hundred percent of the one-person FPL for each person; or

(c) For a married person living with a community spouse, the one-person MNIL.

(4) The SSI-related client residing in a CCF, AFH, or LBH shall:

(a) Retain from a maintenance needs amount, a specified personal needs allowance as described under WAC 388-250-1600 and 388-250-1650; and

(b) Pay the remaining maintenance needs amount to the facility for the cost of board and room.

(5) The department shall include the remaining income after allocations as the participation amount for COPES services as described under WAC 388-15-620.

[Statutory Authority: RCW 74.08.090. 95-20-030 (Order 3899), § 388-515-1505, filed 9/27/95, effective 10/28/95; 94-10-065 (Order 3732), § 388-515-1505, filed 5/3/94, effective 6/3/94.]

WAC 388-515-1530 Coordinated community AIDS services alternatives (CASA) program. (1) The department shall determine that a person is eligible for CASA if the person:

(a) Meets the categorically needy eligibility requirements for an SSI-related institutionalized person. For the purposes of CASA, the department shall consider a person institutionalized the date the person meets eligibility criteria, except institutionalized status;

(b) Has a diagnosis of:

(i) Acquired immune deficiency syndrome or disabling Class IV human immunodeficiency virus disease; or

(ii) P2 HIV/AIDS diagnosis, if fourteen years of age or under.

(c) Is determined medically at risk of need for the level of hospital-provided care;

(d) Is certified by the person's physician or nurse practitioner as in the terminal state of life;

(e) Agrees to receive services in the person's own home, a licensed congregate care facility, or adult family home;

(f) Has a plan of care approved by the department and the department of health; and

(g) Does not have private insurance, including COBRA extensions, that covers inpatient hospital care.

(2) The department shall not require participation in the cost of CASA services by a person:

(a) Receiving SSI; or

(b) Remaining eligible for SSI under 1619(b) of the Social Security Act, but not receiving a cash grant.

(3) The department shall allocate available total income, including amounts disregarded in determining eligibility of a SSI-related CASA client residing at home, as follows:

(a) The client retains as maintenance needs an amount equal to the special income level (SIL) for one person; and

(b) As described under WAC 388-513-1380 (1), (2), (3), (4)(b), (c), (d), (e), (f), (g), and (h), (5), and (6).

(4) The department shall allocate available total income, including amounts disregarded in determining eligibility of a CASA client residing in an adult family home or congregate care facility, as follows:

(a) The client shall retain a specified personal needs allowance as described under WAC 388-250-1600 or 388-250-1650;

(b) As described under WAC 388-513-1380 (1), (2), (3), (4)(c), (d), (e), (f), and (g), (5), and (6); and

(c) Pay remaining income up to the SIL to the facility for the cost of board and room.

(5) The SSI-related CASA client's income remaining after deductions in subsection (3) or (4) of this section shall be the participation amount for CASA services.

(6) When the department has determined that the client has financial participation under subsection (5) of this section, the department shall require the client to meet the participation obligation to remain eligible.

[Statutory Authority: RCW 74.08.090. 95-18-001 (Order 3882), § 388-515-1530, filed 8/23/95, effective 9/23/95; 94-10-065 (Order 3732), § 388-515-1530, filed 5/3/94, effective 6/3/94.]

Chapter 388-517 WAC
MEDICARE-RELATED MEDICAL ELIGIBILITY

WAC

WAC 388-517-1710 Medicare "buy-in" program. (1) The department shall pay Medicare "buy-in" for a person entitled to Medicare Part A and who receives:

(a) AFDC cash grant;

(b) SSI cash assistance;

(c) Categorically needy medical assistance; or

(d) Medically needy medical assistance.

(2) For a person eligible under subsection (1) of this section and subject to limitations under chapter 388-87 WAC, the department shall pay for:

(a) Supplementary medical insurance Part B premium, under Title XVIII of the Social Security Act;

(b) Coinsurance; and

(c) Deductibles.

(3) In addition to the benefits under subsection (2) (a), (b), and (c) of this section, the department shall pay Part A premiums, coinsurance, and deductibles, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-517-1715 and 388-517-1720.

(4) The department shall only pay the Part B premium, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-517-1730 and 388-517-1740.

(5) The department shall only pay Part A premium, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-517-1750 and 388-517-1760.

[Statutory Authority: RCW 74.08.090. 95-14-046 (Order 3863), § 388-517-1710, filed 6/28/95, effective 7/29/95; 94-10-065 (Order 3732), § 388-517-1710, filed 5/3/94, effective 6/3/94.]

WAC 388-517-1715 Qualified Medicare beneficiary (QMB) eligible for Medicare cost sharing. The department shall provide Medicare cost sharing under WAC 388-517-1710(3) for a person:

(1) Meeting the general nonfinancial requirements for an SSI-related person under chapter 388-511 WAC; and

(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act.

[Statutory Authority: RCW 74.08.090. 95-14-046 (Order 3863), § 388-517-1715, filed 6/28/95, effective 7/29/95; 94-10-065 (Order 3732), § 388-517-1715, filed 5/3/94, effective 6/3/94.]

WAC 388-517-1720 Qualified Medicare beneficiaries—Income and resources. (1) The department shall provide Medicare cost sharing for a qualified medical beneficiary (QMB) client having:

(a) A total countable income, as determined under chapter 388-511 WAC, except as specified in subsection (2) of this section, not exceeding one hundred percent of the current federal poverty level (FPL). One hundred percent of the current FPL is:

Family Size	Monthly
(i) One	$623
(ii) Two	$836

(b) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

(2) The department shall not consider a person's Social Security cost-of-living increase until April 1 of each year.

[Statutory Authority: RCW 74.08.090. 95-11-056 (Order 3848A), § 388-517-1720, filed 5/11/95, effective 6/11/95; 94-10-065 (Order 3732), § 388-517-1720, filed 5/3/94, effective 6/3/94.]

WAC 388-517-1730 Special low-income Medicare beneficiaries (SLMB) eligible for Medicare cost sharing. The department shall provide Medicare cost sharing under WAC 388-517-1710(4) for a person:

(1) Meeting the general nonfinancial requirements for an SSI-related person under chapter 388-511 WAC; and

(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act.

[Statutory Authority: RCW 74.08.090. 95-14-046 (Order 3863), § 388-517-1730, filed 6/28/95, effective 7/29/95; 94-10-065 (Order 3732), § 388-517-1730, filed 5/3/94, effective 6/3/94.]

WAC 388-517-1740 Special low-income Medicare beneficiaries (SLMB)—Income and resources. (1) The department shall provide Medicare cost sharing for a SLMB client having:

(a) A total countable income, as determined under chapter 388-511 WAC, over one hundred percent of the current federal poverty level (FPL), but not exceeding one hundred twenty percent of the FPL. One hundred twenty percent of the current FPL is:

Family Size	Monthly
(i) One	$ 747
(ii) Two	$1,003

(b) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

(2) The department shall not consider a person's social security cost-of-living increase until April 1 of each year.

[Statutory Authority: RCW 74.08.090. 95-23-030 (Order 3917, #100251), § 388-517-1740, filed 11/8/95, effective 12/9/95; 95-11-056 (Order 3848A), § 388-517-1740, filed 5/11/95, effective 6/11/95; 94-10-065 (Order 3732), § 388-517-1740, filed 5/3/94, effective 6/3/94.]

WAC 388-517-1750 Hospital premium insurance enrollment for the qualified disabled working individuals (QDWI). The department shall pay premiums for Medicare Part A under WAC 388-517-1710(4) for an SSI-related person:

(1) Who is not otherwise entitled to medical assistance; and

(2) Entitled to enroll for Medicare hospital insurance benefits, Part A, under section 1818A of the Social Security Act.

[Statutory Authority: RCW 74.08.090. 95-14-046 (Order 3863), § 388-517-1750, filed 6/28/95, effective 7/29/95; 94-10-065 (Order 3732), § 388-517-1750, filed 5/3/94, effective 6/3/94.]

WAC 388-517-1760 Qualified disabled working individuals (QDWI) income and resources. The department shall pay premiums for Medicare Part A for a person having:

(1) A total countable family income, as determined under chapter 388-511 WAC, not exceeding two hundred percent of the current FPL. Two hundred percent of the current FPL is:

Family Size	Monthly
(a) One	$1,245
(b) Two	$1,672

(2) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

[Statutory Authority: RCW 74.08.090. 95-11-056 (Order 3848A), § 388-517-1760, filed 5/11/95, effective 6/11/95; 94-10-065 (Order 3732), § 388-517-1760, filed 5/3/94, effective 6/3/94.]

Chapter 388-518 WAC
LIMITED CASUALTY PROGRAM—MEDICALLY INDIGENT (LCP-MI)

WAC

WAC 388-518-1805 LCP-MI eligibility. (1) The department shall not require as a condition of eligibility:

(a) A person's citizenship;

(b) Social Security number; and

(c) Residency.

(2) A person shall not be eligible for LCP-MI when the person:

(a) Is eligible for medical care from another state; or

(b) Enters Washington state specifically for the purpose of obtaining medical care.

(3) A person receiving LCP-MI shall meet the following eligibility criteria:

(a) The person is not:

(i) Receiving continuing cash assistance; or

(ii) Eligible for any other medical program.

(b) The person must have an emergency medical condition as defined in WAC 388-500-0005; and

(c) For a pregnant woman, the department shall increase the number in the household by the number of unborn before comparing the pregnant woman's income to the:

(i) Income requirements of WAC 388-518-1850(1); and

(ii) Resource requirements of WAC 388-518-1850(2).

(4) For a client applying for LCP-MI on or after July 1, 1995, the department shall:

(a) Limit the client to three months of LCP-MI eligibility during the period of July 1, 1995 through June 30, 1996; and

(b) Not consider the months of a certification period beginning prior to July 1, 1995 as counting toward the program limitations described under subsection (4)(a) of this section.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-518-1805, filed 10/25/95, effective 10/28/95; 95-04-049 (Order 3828), § 388-518-1805, filed 1/25/95, effective 2/25/95; 94-10-065 (Order 3732), § 388-518-1805, filed 5/3/94, effective 6/3/94.]

WAC 388-518-1810 LCP-MI emergency medical expense requirement (EMER). (1) The client shall satisfy the EMER as described in this section.

(2) The department shall require documentation of emergency medical expenses of two thousand dollars per family over a twelve-month period.

(3) Only family members meeting the eligibility requirements in WAC 388-518-1805, 388-518-1820, 388-518-1830 and 388-518-1850 can accumulate expenses against the EMER.

(4) For a client applying for services received on or before June 30, 1995, the department shall allow the accumulation of emergency medical expenses to begin up to seven working days before the application date. The department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause.

(5) The department shall consider only the following emergency medical services toward the EMER:

(a) Emergency ground or aid ambulance; and

(b) Emergency hospital services and related physician services in a hospital.

(6) Other than expenses qualifying as hospital charity care under RCW 70.170.060, the emergency medical expense requirement and spenddown are the liability of the client.

(7) If the client does not satisfy the EMER during the three-month base period, the department shall apply the incurred amount to any subsequent applications within twelve months of the initial application.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-518-1810, filed 10/25/95, effective 10/28/95; 94-10-065 (Order 3732), § 388-518-1810, filed 5/3/94, effective 6/3/94.]

WAC 388-518-1840 LCP-MI spenddown. (1) The department shall ensure all countable income above the MNIL described under WAC 388-507-0710 and nonexempted resources above the resource levels described under 388-507-0720 apply toward spenddown.

(2) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from excess countable income as described in WAC 388-519-1930. These expenses cannot have been used toward a previous spenddown, deductible, or emergency medical expense requirement.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-518-1840, filed 10/25/95, effective 10/28/95; 94-10-065 (Order 3732), § 388-518-1840, filed 5/3/94, effective 6/3/94.]

Chapter 388-519 WAC
SPENDDOWN

WAC

WAC 388-519-1905 Base period. (1) Medically needy clients in their own homes shall have a choice of a three-month or a six-month base period which shall begin with the month of application. The department shall use a complete base period unless:

(a) A previous certification period overlaps;

(b) The client is not resource eligible for the medically needy program for the full base period;

(c) The client is not categorically related for the full base period;

(d) The client becomes eligible for categorically needy Medicaid; or

(e) The base period would extend beyond:

(i) December 31, 1995, for an AFDC-related caretaker adult medically needy client; or

(ii) June 30, 1996, for a medically indigent client.

(2) Effective July 1, 1995, the department shall consider the base period for a LCP-MI client:

(a) To be the three months beginning with the first month of emergency ambulance or emergency inpatient hospital or emergency room services; and

(b) May begin up to three calendar months:

(i) Before the date of application; or

(ii) July 1, 1995, whichever is later.

(3) Subject to the limitation described under subsection (1)(e) of this section, the department shall not certify a client for more than:

(a) Six months for a medically needy client; or

(b) Three months for a medically indigent client. See WAC 388-518-1805 for LCP-MI program limitations.

(4) The department shall certify a client who is required to spenddown from the day the client meets the spenddown requirement through the last day of the chosen base period when the client has not incurred hospital expenses equal to the spenddown liability.

(5) The department shall certify a client who is required to spenddown from the first day of the base period when the client has incurred hospital expenses equal to the spenddown liability.

(6) When the client requests retroactive medical coverage at the time of application, the retroactive period shall begin three months before the application month unless exceptions in subsection (1)(a), (b), (c), or (d) of this section exist. The department shall certify a client with spenddown in retroactive period effective:

(a) The day the spenddown requirement was met through the last day of the retroactive period when the client has not incurred hospital expenses equal to the spenddown liability; or

(b) The first day of the retroactive period when the client has incurred hospital expenses equal to the spenddown liability.

(7) The department shall require an application for any subsequent period of eligibility for the medically needy program.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-519-1905, filed 10/25/95, effective 10/28/95; 94-10-065 (Order 3732), § 388-519-1905, filed 5/3/94, effective 6/3/94.]

Chapter 388-521 WAC
MEDICAL EFFECTIVE DATES

WAC

WAC 388-521-2140 Effective date for the medically indigent program. (1) The department shall ensure the effective date of eligibility is the date the client meets spenddown, if any, and the emergency medical expense requirement.

(2) The department shall pay for emergency medical care as described under WAC 388-529-2950 when:

(a) The condition was an emergency medical condition requiring hospital services; and

(b) The person was otherwise eligible.

(3) The department shall determine the certification period does not exceed three calendar months.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-521-2140, filed 10/25/95, effective 10/28/95; 94-10-065 (Order 3732), § 388-521-2140, filed 5/3/94, effective 6/3/94.]

Chapter 388-522 WAC
MEDICAL ELIGIBILITY CHANGES

WAC

WAC 388-522-2230 Eligibility reviews. (1) When a client is receiving cash assistance, the department shall not require a separate eligibility review for the related medical assistance program.

(2) When a client is in a medical institution or receiving medical assistance, the department shall redetermine eligibility:

(a) Every twelve months for a person receiving categorically needy medical assistance; or

(b) Each three or six months, at the client's option, for a person receiving the medically needy program.

(3) The department shall terminate eligibility for a medical program when a person:

(a) Does not complete and return to the department a department-designated eligibility review form before the last day of the certification period; or

(b) Is determined ineligible for a medical program.

[Statutory Authority: RCW 74.08.090. 95-15-039 (Order 3870), § 388-522-2230, filed 7/12/95, effective 8/12/95; 94-10-065 (Order 3732), § 388-522-2230, filed 5/3/94, effective 6/3/94.]

Chapter 388-527 WAC
MEDICAL OVERPAYMENT/REPAYMENT

WAC

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-527-2710 Recovery from estates. [Statutory Authority: RCW 74.08.090 and OBRA 1993, HB 2492. 94-17-035 (Order 3768), § 388-527-2710, filed 8/10/94, effective 9/10/94. Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-527-2710, filed 5/3/94, effective 6/3/94.] Repealed by 95-19-001 (Order 3893), filed 9/6/95, effective 10/7/95. Statutory Authority: RCW 74.08.090 and 1995 1st sp.s. c 18.

388-527-2720 Restitution. [Statutory Authority: RCW 74.08.090. 94-10-065 (Order 3732), § 388-527-2720, filed 5/3/94, effective 6/3/94.] Repealed by 95-19-001 (Order 3893), filed 9/6/95, effective 10/7/95. Statutory Authority: RCW 74.08.090 and 1995 1st sp.s. c 18.

WAC 388-527-2710 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-527-2720 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-527-2730 Estate recovery definitions. (1)(a) For estate recovery purposes, "estate" includes:

(i) For a client who dies before July 1, 1995 all real and personal property and any other assets that pass upon the client's death:

(A) Under the client's will;

(B) By intestate succession pursuant to chapter 11.04 RCW; or

(C) Under chapter 11.62 RCW; or

(ii) For a client who dies after June 30, 1995 all real and personal property and any other assets that pass upon the client's death:

(A) Under the client's will;

(B) By intestate succession pursuant to chapter 11.04 RCW; or

(C) Under chapter 11.62 RCW; and

(D) Nonprobate assets as defined by RCW 11.02.005, except property passing through a community property agreement.

(b) The value of the estate shall be reduced by any valid liability against the deceased client's property at the time of death.

(2) "Long-term care services" means the services administered directly or through contract by the aging and adult services administration of the department, including but not limited to nursing facility care and home and community services. "State-funded long-term care" means the long-term care services that are paid with state funds and do not include federal funds.

(3) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the Federal Social Security Act.

[Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. 95-19-001 and 95-24-037 (Orders 3893 and 3893A), § 388-527-2730, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]

WAC 388-527-2735 Liability for medical care. (1) A client's estate may be liable for the cost of medical care the department correctly paid on the client's behalf.

(2) The rules in this chapter state when the client's estate is liable for medical care the department paid and when the department shall seek recovery.

[Statutory Authority: RCW 74.08.090 and 1995 1st sp.s. c 18. 95-19-001 (Order 3893), § 388-527-2735, filed 9/6/95, effective 10/7/95.]

WAC 388-527-2740 Age when recovery applies. Whether the client's estate is liable for the cost of medical care provided depends, in part, upon the client's age and when the services were received. Subsection (1) of this section covers liability for medical assistance and subsection (2) covers liability for state-funded long-term care services. An estate may be liable under both subsections.

(1)(a) If a client was age sixty-five or older on July 1, 1994, the estate is liable for medical assistance subject to recovery provided on and after the date the client became age sixty-five.

(b) If the client was age fifty-five through sixty-four years of age on July 1, 1994, the estate is liable for medical assistance subject to recovery provided on and after July 1, 1994.

(c) If a client was under age fifty-five on July 1, 1994, the estate is liable for medical assistance subject to recovery provided on and after the date the client became age fifty-five.

(2) The estate is liable for state-funded long-term care services provided on and after July 1, 1995 regardless of the client's age when the services were provided.

[Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. 95-19-001 and 95-24-037 (Orders 3893 and 3893A), § 388-527-2740, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]

WAC 388-527-2742 Services subject to recovery. Whether the client's estate is liable for medical care provided depends, in part, upon what medical services the client received and the dates when services were provided. Subsection (1) of this section covers liability for medical assistance and subsection (2) covers liability for state-funded long-term care services. An estate can be liable under both subsections.

(1)(a) The estate is liable for all medical assistance services provided before July 1, 1994;

(b) The estate is liable for the following medical assistance services provided after June 30, 1994 and before July 1, 1995:

(i) Nursing facility services;

(ii) Home and community-based services; and

(iii) Related hospital services and prescription drug services.

(c) The estate is liable for the following medical assistance services provided after June 30, 1995:

(i) Nursing facility services;

(ii) Home and community-based services;

(iii) Adult day health;

(iv) Medicaid personal care;

(v) Private duty nursing administered by the aging and adult services administration of the department; and

(vi) Related hospital and prescription drugs services.

(2) The estate is liable for all state-funded long-term care services and related hospital and prescription drug services provided after June 30, 1995.

[Statutory Authority: RCW 74.08.090 and 1995 1st sp.s. c 18. 95-19-001 (Order 3893), § 388-527-2742, filed 9/6/95, effective 10/7/95.]

WAC 388-527-2750 Waiver of recovery if undue hardship. The department shall waive recovery under this section when recovery would work an undue hardship except as provided in subsection (3) of this section. This waiver is limited to the period during which undue hardship exists.

(1) Undue hardship exists when:

(a) The estate subject to adjustment or recovery is the sole income-producing asset of one or more of the heirs and income is limited; or

(b) Recovery would result in the impoverishment of one or more of the heirs; or

(c) Recovery would deprive an heir of shelter and the heir lacks the financial means to obtain and maintain alternative shelter.

(2) Undue hardship does not exist when:

(a) The adjustment or recovery of the client's cost of assistance would merely cause the client's family members inconvenience or restrict the family's lifestyle.

(b) The heir divests assets to qualify under the undue hardship provision.

(3) The department shall not waive recovery based on undue hardship when a deceased client's assets were disregarded in connection with a long-term care insurance policy or contract under chapter 48.85 RCW.

(4) A person who requests the department to waive recovery in whole or in part, and who suffers a loss because the request is not granted, may contest the department's decision in an adjudicative proceeding. The department's decision shall state the requirements for an application for an adjudicative proceeding and state where assistance might be obtained to make an application. The proceeding shall be governed by chapters 34.05 RCW and 388-08 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-08 WAC, the provision in this section governs. An application for an adjudicative proceeding must:

(a) Be in writing;

(b) State the basis for contesting the department's denial of the request to waive recovery;

(c) Include a copy of the department's denial of the request to waive recovery;

(d) Be signed by the applicant and the state and include the applicant's address and telephone number;

(e) Be served within twenty-eight days of the date the applicant received the department's decision denying the request for a waiver. An application filed up to thirty days late may be treated as if timely filed if the applicant shows good cause for filing late; and

(f) Be served on the office of financial recovery in a manner which shows proof of receipt, such as personal service or certified mail, return receipt requested. The mailing address of the Office of Financial Recovery is: P.O. Box 9501, Olympia WA 98507-9501. The physical location of the Office of Financial Recovery is Capitol View Building, Second Floor, 712 Pear Street Southeast, Olympia, Washington.

[Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. 95-19-001 and 95-24-037 (Orders 3893 and 3893A), § 388-527-2750, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]

WAC 388-527-2752 Deferring recovery. If the client died after June 30, 1994 the department shall defer recovery from the estate until:

(1) The death of the surviving spouse, if any, and

(2) There is no surviving child who is:

(a) Under twenty-one years of age, or

(b) Blind or disabled as defined under chapter 388-511 WAC.

[Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. 95-19-001 and 95-24-037 (Orders 3893 and 3893A), § 388-527-2752, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]

WAC 388-527-2753 No liability for medical care. The client's estate is not liable when the client died before July 1, 1994 and on the date of death there was:

(1) A surviving spouse; or

(2) A surviving child who was either:

(a) Under twenty-one years of age; or

(b) Blind or disabled as defined under chapter 388-511 WAC.

[Statutory Authority: RCW 74.08.090 and 1995 1st sp.s. c 18. 95-19-001 (Order 3893), § 388-527-2753, filed 9/6/95, effective 10/7/95.]

WAC 388-527-2754 Assets not subject to recovery. (1) If a client died before July 25, 1993 with no surviving spouse or blind or disabled child, but with a surviving child, recovery does not apply to the first fifty thousand dollars of the estate value at the time of death and recovery is limited to thirty-five percent of the remaining value of the estate.

(2) If a client died after July 24, 1993 and before July 1, 1994, the department shall not seek recovery against the following property, up to a fair market value of two thousand dollars, from the estate of the client:

(a) Family heirlooms,

(b) Collectibles,

(c) Antiques,

(d) Papers,

(e) Jewelry,

(f) Photos, and

(g) Other personal effects of the deceased client and to which a surviving child is entitled.

[Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. 95-19-001 and 95-24-037 (Orders 3893 and 3893A), § 388-527-2754, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]

WAC 388-527-2790 Filing a lien against real property. (1) The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance or state-funded long-term care, or both, correctly paid on behalf of a client as required by 42 U.S.C. 1396p and chapters 43.20B RCW and 388-527 WAC.

(2) When the department seeks to recover from a client's estate the cost of medical assistance or state-funded long-term care, or both, provided to the client, prior to filing a lien against the deceased client's real property, the department shall provide notice to:

(a) The probate estate's personal representative, if any;

(b) The decedent's surviving spouse, if any; or

(c) Any other person having title to the affected property.

(3) Prior to filing a lien against any of the deceased client's real property, the department shall provide ascertained persons having title to the property notice and an opportunity for an adjudicative proceeding. The department shall:

(a) Serve upon ascertained persons having title to the property a notice of intent to file lien, which shall state:

(i) The deceased client's name, social security number, if known, date of birth, and date of death;

(ii) The amount of medical assistance, or state-funded long-term care, or both, correctly paid on behalf of the deceased client the department seeks to recover;

(iii) The department's intent to file a lien against the deceased client's real property to recover the medical assistance or state-funded long-term care, or both, correctly paid on behalf of the deceased client;

(iv) The county in which the real property is located; and

(v) The right of the ascertained person having title to the property to contest the department's decision to file a lien by filing an application for an adjudicative proceeding with the office of financial recovery; and

(b) Provide an adjudicative proceeding to determine whether:

(i) The amount of medical assistance or state-funded long-term care, or both, correctly paid on behalf of the deceased client alleged by the department's notice of intent to file lien is correct; and

(ii) The deceased client had any legal title to the real property at the time of the client's death.

(4) An application for an adjudicative proceeding must:

(a) Be in writing;

(b) State the basis for contesting the department's notice of intent to file lien;

(c) Be signed by the applicant and state the applicant's address and telephone number;

(d) Be served on the office of financial recovery within twenty-eight days of the date the applicant received the department's notice of intent to file lien. An application filed up to thirty days late may be treated as timely filed if the applicant shows good cause for filing late; and

(e) Be served on the office of financial recovery in a manner in which shows proof of receipt, such as personal service or certified mail, return receipt requested. The mailing address of the Office of Financial Recovery is P.O. Box 9501, Olympia WA 98507-9501. The physical location of the Office of Financial Recovery is Capitol View Building, Second Floor, 712 Pear Street Southeast, Olympia, Washington.

(5) Upon receipt of an application for an adjudicative proceeding, the department shall provide notice of the proceeding to all other ascertained persons having title to the property.

(6) An adjudicative proceeding under this section shall be governed by chapters 34.05 RCW and 388-08 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-08 WAC, the provision in this section governs.

(7) If no ascertained person having title to the property files an application for an adjudicative proceeding within twenty-eight days of the date the department served a notice of intent to file lien, the department shall file a lien. The department shall file a lien against the deceased client's real property for the amount of medical assistance or state-funded long-term care, or both, correctly paid on behalf of the deceased client alleged in the notice of intent to file lien.

[Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. 95-19-001 and 95-24-037 (Orders 3893 and 3893A), § 388-527-2790, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]

Chapter 388-529 WAC
SCOPE OF MEDICAL SERVICES

WAC

WAC 388-529-2950 Scope of care—Medically indigent. (1) The department shall provide coverage under the limited casualty program-medically indigent to an eligible person for treatment of emergency medical conditions requiring hospital-based care only. Services available are limited to:

(a) Medically necessary emergency air or ground ambulance; and

(b) Physician services related to hospital services.

(2) The department shall not pay for covered services until the client has medical expenses equal to the total of the emergency medical expense requirement of two thousand dollars and the spenddown, if any.

(3) The emergency medical expense requirement in WAC 388-518-1850 does not apply for treatment under the Involuntary Treatment Act (ITA). When any other medical need is identified for clients undergoing treatment under the ITA, the department shall apply the emergency medical expense requirement to the services other than ITA.

(4) For other conditions and limitations under which the department may provide these services, refer to appropriate service in chapter 388-86 WAC.

(5) The department shall not provide a client out-of-state care except in the designated bordering cities.

[Statutory Authority: RCW 74.08.090. 95-22-039 (Order 3913, #100246), § 388-529-2950, filed 10/25/95, effective 10/28/95; 94-10-065 (Order 3732), § 388-529-2950, filed 5/3/94, effective 6/3/94.]

Chapter 388-535 WAC
DENTAL-RELATED SERVICES

WAC

WAC 388-535-1000 Dental-related services—Scope of coverage. (1) The medical assistance administration (MAA) shall pay only for covered medical and dental services, equipment, and supplies listed in MAA published issuances, including billing instructions, numbered memoranda, and bulletins.

(2) MAA shall pay for covered dental services, equipment and supplies when they are:

(a) Within the scope of an eligible client's medical care program;

(b) Medically necessary;

(c) Within accepted medical or dental practice standards and are:

(i) Consistent with a diagnosis; and

(ii) Reasonable in amount and duration of care, treatment, or service.

(d) Not noncovered services as described under WAC 388-535-1100, Noncovered dental services; and

(e) Billed according to the conditions of payment under WAC 388-87-010 and 388-87-015.

(3) MAA shall cover the following dental-related services:

(a) Oral health evaluations/assessments, including oral health screening by providers of early and periodic screening, diagnoses and treatment (EPSDT) screening services authorized by MAA to provide screening.

(i) Oral health evaluation or assessment services shall be covered every six months, and an oral health evaluation of a child shall include an indicator of the child's oral health status.

(ii) The screening services shall, at a minimum, include:

(A) A comprehensive oral health and developmental history;

(B) An assessment of physical and oral health development and nutritional status;

(C) Health education, including anticipatory guidance; and

(D) Oral health status.

(b) Dental services necessary for the identification of dental problems or the prevention of dental disease subject to limitations of this chapter;

(c) Coronal polishing and scaling, provided that coronal polishing shall not be covered for children seven years old or younger, unless prior authorized, see WAC 388-535-1200 (1)(e);

(d) Dental services or treatment necessary for the relief of pain and infections, including removal of wisdom teeth, except that routine removal of wisdom teeth without justifiable medical indications shall not be covered;

(e) Dental services or treatment necessary for the restoration of teeth and maintenance of dental health subject to limitations of this chapter;

(f) Orthodontic treatment, which is defined as the use of any appliance, intraoral or extraoral, removable or fixed, or any surgical procedure designed to move teeth. The following limitations apply:

(i) Orthodontic coverage is limited to clients who are eligible for the EPSDT/healthy kids services;

(ii) Prior approval is required; and

(iii) Treatment is limited to conditions specified in WAC 388-535-1250.

(g) Complete and partial dentures, and necessary modifications, repairs, rebasing, relining and adjustments of dentures. Cast base partial dentures are covered with prior authorization.

(4) For children identified as high risk through oral health evaluation/assessment or clients identified by the department as developmentally disabled, the following preventive services may be allowed more frequently than the limits listed in (3) of this section:

(a) Fluoride application;

(b) Root planing, if a developmentally disabled client; and

(c) Prophylaxis scaling and coronal polishing, if eight years of age and over, or developmentally disabled.

(5) Panoramic radiographs are allowed only for oral surgical or orthodontic purposes.

(6) The department shall cover medically necessary services provided in a hospital for the care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization. Services covered under this subsection shall be furnished under the direction of a physician or dentist.

(7) For clients residing in nursing facilities or group homes, the following additional requirements shall apply:

(a) Dental services shall be requested by the client or a referral for services made by the attending physician, facility nursing supervisor, or the client's legal guardian;

(b) Mass screening for dental services of clients residing in a facility is not permitted, except for the EPSDT/healthy kids services as described under WAC 388-86-027;

(c) Nursing facilities shall provide medically necessary dental services in accordance with WAC 388-97-225.

(8) If eligibility for dental services ends before the conclusion of the dental treatment, payment for any remaining treatment shall be the client's responsibility. The client shall be responsible for payment of any dental treatment or service received during any period of ineligibility for medical care, even if the treatment was started when the client was eligible.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1000, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1050 Definitions. This section contains definitions of words and phrases the department uses in rules for the medical assistance administration dental program.

(1) **"Access to baby and child dentistry (ABCD)"** is a Spokane County pilot initiative to increase access to dental services for Medicaid eligible infants, toddlers, and preschoolers.

(2) **"Arch"** means the curving structure formed by the crowns of the teeth in their normal position, or by the residual ridge after loss of the teeth.

(3) **"Banding"** means the application of orthodontic brackets to the teeth and/or face for the purpose of correcting dentofacial abnormalities.

(4) **"Behavior management"** means managing the behavior of a client during treatment using the assistance of additional professional staff, and restraints such as a papoose board or sedative agent, to protect the client from self-injury.

(5) **"Buccal"** means pertaining to or directed toward the cheek.

(6) **"By report"** - a method of payment for a covered service, supply, or equipment for which the medical assistance administration has not established a maximum allowable, either because the service or supply is new and its use is not yet considered standard, or it is a variation on a standard practice, or is rarely provided. Payment for a "by report" service or item is made on a case-by-case basis.

(7) **"Caries"** means a disease of the calcified tissues of the teeth resulting from the action of microorganisms on carbohydrates, characterized by a decalcification of the inorganic portion of the tooth and accompanied or followed by disintegration of the organic portion.

(8) **"Child"** - for purposes of the dental program, a child is defined as a person zero through eighteen years of age.

(9) **"Cleft"** means a longitudinal opening or fissure, especially one occurring in the embryo. Also see "facial cleft."

(10) **"Comprehensive oral evaluation"** means a thorough evaluation and recording of the extraoral and intraoral hard and soft tissues. Includes the evaluation and recording of the patient's dental and medical history and a general health assessment.

(11) **"Corona"** is the portion of a tooth that is covered by enamel, and is separated from the root or roots by a slightly constricted region, known as the neck.

(12) **"Craniofacial anomalies"** means abnormalities of the head and face, either congenital or acquired.

(13) **"Current dental terminology (CDT), second edition (CDT-2),"** a systematic listing of descriptive terms and identifying codes for reporting dental services and procedures performed by dental practitioners. CDT is published by the Council on Dental Benefit Programs of the American Dental Association (ADA).

(14) **"Dental analgesia"** means the use of agents to induce insensibility to or relief from dental pain without loss of consciousness.

(15) **"Dental anesthesia"** means the use of agents to induce loss of feeling or sensation in order to allow dental services to be rendered to the client. The term is applied especially to the loss of sensation of pain through general anesthesia.

(16) **"Dentin"** is the chief substance or tissue of the teeth, which surrounds the tooth pulp and is covered by enamel on the crown and by cementum on the roots of the teeth.

(17) **"Dental prosthesis"** means a replacement for one or more of the teeth or other oral structure, ranging from a single tooth to a complete denture.

(18) **"Dentures"** are a set of natural or artificial teeth; ordinarily used to designate an artificial replacement for the natural teeth.

(19) **"Dysplasia"** means an abnormality of development of the teeth.

(20) **"Enamel"** is the white, compact, and very hard substance that covers and protects the dentin of the crown of a tooth.

(21) **"Facial clefts"** are the clefts between the embryonic processes which normally unite to form the face. Failure of such union, depending on its site, causes such developmental defects as cleft lip (harelip), cleft mandible, oblique facial cleft, and transverse facial cleft (macrostomia).

(22) **"High risk"** child means any child who has been identified through an oral evaluation or assessment as having a high risk for dental disease because of caries in the child's dentin; or a child identified by the department as developmentally disabled.

(23) **"Hypoplasia"** means the incomplete or defective development of the enamel of the teeth.

(24) **"Limited oral evaluation"** means an evaluation or reevaluation limited to a specific oral health situation or problem.

(25) **"Limited visual oral assessment"** - A service preformed by dentists which involves assessing the need for sealants to be placed by dental hygienists; screening children in Head Start or ECEAP programs; providing triage services; or in circumstances referring a child to another dentist for treatment. These assessments are also used by dental hygienists performing intraoral screening of soft and hard tissues to assess the need for prophylaxis, sealants, fluoride varnish, or refers to a dentist for other dental treatment.

(26) **"Low risk"** child means any child who has been identified through an oral evaluation or assessment as having a low risk for dental disease because of the absence of white spots or caries in the enamel or dentin. This category includes children with restorations who are otherwise without disease.

(27) **"Macrostomia"** means a greatly exaggerated width of the mouth, resulting from failure of union of the maxillary and mandibular processes, with extension of the oral orifice to the ear. The defect may be unilateral or bilateral.

(28) **"Malocclusion"** means the contact between the maxillary and mandibular teeth as will interfere with the highest efficiency during the excursive movements of the jaw that are essential to mastication. The abnormality is categorized into four classes, graded by angle.

(29) **"Moderate risk"** child means a child who has been identified through an oral evaluation or assessment as having a moderate risk for dental disease, based on presence of white spots, enamel caries or hypoplasia.

(30) **"Occlusion"** means the relation of the maxillary and mandibular teeth when in functional contact during activity of the mandible.

(31) **"Oral evaluation"** is an evaluation performed on a client, new or established, to determine the patient's dental and/or medical health status, or changes to that status.

(32) **"Oral health assessment or screening"** is a comprehensive oral health and developmental history; an assessment of physical and oral health development and nutritional status; and health education, including anticipatory guidance.

(33) **"Oral health status"** refers to the client's risk or susceptibility to dental disease at the time an oral evaluation is done by a dental practitioner. This risk is designated as low, moderate or high based on the presence or absence of certain indicators.

(34) **"Oral sedation"** means the use of oral agents to produce a sedative or calming effect.

(35) **"Orthodontia"** is a treatment involving the use of any appliance, intraoral or extraoral, removable or fixed, or any surgical procedure designed to move teeth.

(35) **"Partial dentures"** means a prosthetic appliance replacing one or more missing teeth in one jaw, and receiving its support and retention from both the underlying tissues and some or all of the remaining teeth.

(36) **"Prophylaxis"** is a preventive intervention which includes the scaling and polishing of teeth to remove coronal plaque, calculus, and stains.

(37) **"Rebase"** means to replace the base material of a denture without changing the occlusal relations of the teeth.

(38) **"Reline"** means to resurface the tissue side of a denture with new base material in order to achieve a more accurate fit.

(39) **"Restorative services"** means services or treatments to restore a tooth to its original condition by the filling of a cavity and replacement of lost parts, or the material used in such a procedure.

(40) **"Root planing"** is a procedure designed to remove microbial flora, bacterial toxins, calculus, and diseased cementum or dentin from the teeth's root surfaces and pockets.

(41) **"Scaling"** means the removal of calculous material from the exposed tooth surfaces and that part of the teeth covered by the marginal gingiva.

(42) **"Sealant"** is a material applied to teeth to prevent dental caries.

(43) **"Space management therapy"** is a treatment to hold space for missing first and/or second primary molars and maintain position for permanent teeth.

(44) **"Usual and customary charge"** means the fee that the provider usually charges his or her non-Medicaid customers for a service or item. This is the maximum amount that the provider may bill MAA for the same service or item.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1050, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1100 Noncovered dental services. (1) Unless required as a result of a EPSDT/Healthy Kids screen, included as part of a managed care plan service package; included in a waivered program; or part of one of the Medicare programs for the qualified Medicare beneficiaries; the MAA may exclude from the scope of covered dental-related services:

(a) Services, procedures, treatment, devices, drugs, or application of associated services which MAA or the Health Care Financing Administration (HCFA) consider investigative or experimental on the date the services are provided;

(b) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to an accident, birth defect, or illness;

(c) Orthodontia for adults, except that Medicaid eligible clients nineteen and twenty years of age who meet the criteria in WAC 388-535-1250 shall be covered;

(d) Orthodontia for children who do not meet the criteria in WAC 388-535-1250, or who request orthodontia for cosmetic reasons;

(e) Any service specifically excluded by statute;

(f) More costly services when less costly equally effective services as determined by the department are available;

(g) Nonmedical equipment, supplies, personal or comfort items and/or services;

(h) Prophylaxis, for children seven years of age or younger, unless developmentally disabled;

(i) Root planing for children eighteen years of age or younger;

(j) Molar endodontics for clients nineteen years of age or older;

(k) Endodontic services for anterior primary teeth, except that new therapeutic pulpotomy shall be covered; and

(l) For a persons nineteen years of age and older, unless developmentally disabled:

(i) Routine fluoride treatments;

(ii) Molar endodontics; or

(iii) Orthognathic surgery.

(2) MAA does not pay for the following services/supplies:

(a) Missed or canceled appointments;

(b) Provider mileage or travel costs;

(c) Take-home drugs;

(d) Dental supplies such as toothbrushes, manual or automatic, electric, toothpaste, floss, or whiteners;

(e) Educational supplies;

(f) Reports, client charts, insurance forms, copying expenses;

(g) Service charges/delinquent payment fees;

(h) Dentists writing prescriptions or calling in prescriptions or prescription refills to a pharmacy; and

(i) Medical supplies used in conjunction with an office visit.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1100, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1150 Eligible dental providers defined. (1) The following providers shall be eligible for enrollment to provide and be reimbursed for dental-related medical services to eligible clients:

(a) Persons currently licensed by the state of Washington to practice medicine and osteopathy, for oral surgery procedures;

(b) Persons currently licensed by the state of Washington to practice dentistry;

(c) Persons currently licensed by the state of Washington to practice as dental hygienists;

(d) Persons currently licensed by the state of Washington to provide denture services (denturists);

(e) Hospitals currently licensed by the department of health;

(f) Federally-qualified health centers;

(g) Participating health departments;

(h) Medicare-certified ambulatory surgical centers;

(i) Medicare-certified rural health clinics;

(j) Public health providers of dental screening services who have a signed agreement with the department to provide such services to persons eligible for EPSDT/healthy kids services; and

(k) Border area or out-of-state providers of dental-related services qualified in their states to provide these services.

(2) A licensed provider participating in the MAA dental program may be reimbursed only for those services that are within his or her scope of practice.

(3) The provider shall bill the department and its clients according to WAC 388-87-010 and 388-87-015.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1150, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1200 Prior authorization. (1) The following services require prior approval:

(a) Nonemergent surgical procedures as described under WAC 388-86-095;

(b) Nonemergent hospital admissions as described under WAC 388-86-050 and 388-87-070;

(c) Orthodontic treatment as described under WAC 388-535-1000 (3)(f);

(d) Cast base partial dentures;

(e) Coronal polishing and scaling for children seven years of age and under; or

(f) Selected procedures determined by the department.

(2) When requesting prior approval, the department shall require the dental provider to submit, in writing, sufficient objective clinical information to establish medical necessity including, but not limited to:

(a) A physiological description of the disease, injury, impairment, or other ailment;

(b) Pertinent laboratory findings;

(c) X-ray reports; and

(d) Patient profiles.

(3) The department shall approve a request when the requested service meets the criteria in WAC 388-535-1000(2), Scope of coverage.

(4) The department shall deny a request for dental services when the requested service is:

(a) Not medically necessary as defined under WAC 388-500-0005; or

(b) A service, procedure, treatment, device, drug, or application of associated service which MAA or the Health Care Financing Administration (HCFA) consider investigative or experimental on the date the service is provided.

(5) The department may require a second opinion and/or consultation before the approval of any elective oral surgical procedure.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1200, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1250 Orthodontic coverage for DSHS clients. The department shall cover orthodontia care when:

(1) Prior authorized;

(2) A client is eligible for EPSDT/healthy kids services; and

(3) A client meets one of the following categories:

(a) A child with clefts and congenital or acquired craniofacial anomalies:

(i) Cleft lip and palate, cleft palate, and cleft lip with alveolar process involvement;

(ii) Craniofacial anomalies, including but not limited to:

(A) Hemifacial microsomia;

(B) Craniosynostosis syndromes;

(C) Cleidocranial dysplasia;

(D) Arthrogryposis;

(E) Marfans syndrome; or

(F) Other syndromes by review;

(iii) Other diseases/dysplasia with significant facial growth impact, e.g., juvenile rheumatoid arthritis (JRA); or

(iv) Post traumatic, post radiation, or post burn jaw deformity.

(b) A child with severe malocclusions which include one or more of the following:

(i) A severe skeletal disharmony;

(ii) A severe overjet resulting in functional impairment;

(iii) A severe vertical overbite resulting in palatal impingement; and/or damage to the mandibular labial tissues.

(c) A child with other malformations resulting in severe functional impairment shall be reviewed for medical necessity.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1250, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1300 Access to baby and child dentistry (ABCD) program. (1) The access to baby and child dentistry (ABCD) program is a demonstration project in Spokane County, established to increase access to dental services for Medicaid eligible infants, toddlers, and preschoolers.

(2) Children eligible for the ABCD program shall be four years of age and under and residing in Spokane County.

(3) Dental providers certified by the University of Washington continuing education program shall provide ABCD services.

(4) In addition to services provided under the medical assistance administration (MAA) dental care program, the following services are provided:

(a) Family oral health education; and

(b) Case management services.

(5) Clients who do not comply with program requirements may be disqualified from the ABCD program. The client remains eligible for regular MAA dental coverage.

(6) MAA pays enhanced fees to ABCD-certified participating providers for the targeted services.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1300, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1350 Payment methodology—Dental services. (1) For covered services provided to eligible clients, MAA shall reimburse dentists and related providers on a fee-for-service or contract basis, subject to the excep-

tions and restrictions listed under WAC 388-535-1100, Noncovered dental services and WAC 388-535-1400 Dental payment limits.

(2) In general maximum allowable fees (MAFs) for dental services provided to adult clients are based on the department's historical reimbursement rates, updated for legislatively authorized vendor rate increases.

(3) MAA may pay providers a higher reimbursement rate for selected dental services provided to children eighteen years and younger in order to increase children's access to dental services.

(4) Maximum allowable fees (MAFs) for dental services provided to children are set as follows:

(a) The department's historical reimbursement rates for various procedures are compared to usual and customary charges.

(b) The department consults with and seeks input from representatives of the provider community to identify program areas/concerns that need to be addressed.

(c) The department consults with dental experts and public health professionals to identify and prioritize dental services/ procedures in terms of their effectiveness in improving and/or promoting children's dental health.

(d) Legislatively authorized vendor rate increases and/or earmarked appropriations for children's dental services are allocated to specific procedures based on this priority list and considerations of access to services.

(e) Larger percentage increases are given to those procedures which have been identified as most effective in improving and/or promoting children's dental health.

(f) Budget-neutral rate adjustments are made as appropriate based on the department's evaluation of utilization trends, effectiveness of interventions, and access issues.

(5) Dental anesthesia services for all eligible clients are reimbursed on the basis of base anesthesia units (BAU) plus time. Payment for dental anesthesia is calculated as follows:

(a) Dental procedures are assigned five base anesthesia units;

(b) Twelve minutes constitute one unit of time. When a dental procedure requiring anesthesia results in multiple time units and a remainder (less than twelve minutes), the remainder or fraction shall be considered as one time unit;

(c) Time units are added to the five base anesthesia units and multiplied by the anesthesia conversion factor;

(d) The formula for determining reimbursement for dental anesthesia is: (5.0 base anesthesia units + time units) x conversion factor = payment.

(6) Dental hygienists shall be paid at the same rate as dentists for services allowed under The Dental Hygienist Practice Act.

(7) Licensed denturists or dental laboratories billing independently shall be paid at MAA's allowance for prosthodontics.

(8) Fee schedule changes are made whenever vendor rate increases or decreases are authorized by the legislature.

(9) The department uses the American Dental Association's Current Dental Terminology, Second Edition (CDT-2) as the basis for identification of dental services. The department supplements this list with state-assigned procedure codes to identify services which do not fit exactly into the CDT-2 descriptions.

(10) The department may adjust maximum allowable fees to reflect changes in the services or procedure code descriptions.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1350, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1400 Dental payment limits. (1) Provision of covered services to a client eligible for a medical care program constitutes acceptance by the provider of the department's rules and fees.

(2) Participating providers shall bill the department their usual and customary fees.

(3) Payment for dental services is based on the department's schedule of maximum allowances. Fees listed in the MAA fee schedule are the maximum allowable fees.

(4) Payment to the provider will be the lesser of the billed charge (usual and customary fee) or the department's maximum allowable fee.

(5) If a covered service is performed for which no fee is listed, the service shall be paid "By Report."

(6) Clients shall be responsible for payment as described under WAC 388-087-010 for services not covered under the client's medical care program.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1400, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1450 Payment—Denture laboratory services. (1) A dentist using the services of an independent denture laboratory shall request services for an MAA client in the same manner he or she requests services for his or her private patient.

(2) An independently practicing denturist may bill the department directly. No reimbursement shall be made to a dentist for services performed and billed by an independent denturist.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1450, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1500 Payment—Dental-related hospital services. The department shall pay for medically necessary dental-related hospital inpatient and outpatient services according to WAC 388-87-070 and 388-87-072.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1500, filed 12/6/95, effective 1/6/96.]

WAC 388-535-1550 Dental care provided out-of-state. (1) The department shall authorize and provide comparable dental care services to clients who are temporarily outside of the state to the same extent that such dental care services are furnished to clients in the state, subject to the same exceptions and limitations as in-state clients.

(2) The department shall not provide out-of-state dental care to clients receiving medical care services as defined under WAC 388-500-0005. The department shall cover dental services in designated bordering cities for eligible clients.

(3) Out-of-state dental providers shall meet the same criteria for payment as in-state providers.

[Statutory Authority: Initiative 607, 1995 c 18 2nd sp.s. and 74.08.090. 96-01-006 (Order 3931), § 388-535-1550, filed 12/6/95, effective 1/6/96.]

Chapter 388-538 WAC
MANAGED CARE

WAC

WAC 388-538-050 Definitions. For the purpose of this chapter:

(1) "Emergency services" shall mean medical or other health services which are rendered for a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(a) Placing the patient's health in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of any bodily organ or part.

(2) "Enrolled client" means a client eligible for Medicaid and receiving services from a health care plan or primary care case management provider who has a contract with the department.

(3) "Health care plan" or "plan" means an organization contracting with the department to provide managed care to the client by providing and/or paying for medical services covered by the department to an eligible enrolled client in exchange for a contracted rate or management fee.

(4) "Managed care" means a comprehensive system of medical and health care delivery including preventive, primary, specialty, and ancillary services. Managed care involves having clients enrolled:

(a) With or assigned to a primary care provider;

(b) With or assigned to a plan; or

(c) With an independent provider, who is responsible for arranging or delivering all contracted medical care.

(5) "Persons with special health care needs" means persons having ongoing health conditions that:

(a) Have a biologic, psychologic, or cognitive basis;

(b) Have lasted or are virtually certain to last for at least one year; and

(c) Produce one or more of the following sequelae:

(i) Significant limitation in areas of physical, cognitive, or emotional function;

(ii) Dependency on medical or assistive devices to minimize limitation of function or activities;

(iii) In addition for children:

(A) Significant limitation in social growth or developmental function;

(B) Need for psychologic, educational, medical or related services over and above the usual for the child's age; or

(C) Special ongoing treatments such as medications, special diets, interventions or accommodations at home or at school.

(6) "Primary care provider (PCP)" means a provider who has responsibility for supervising, coordinating, and providing initial and primary care to clients, initiating referrals for specialist care, and maintaining the continuity of patient care. A primary care provider shall be either:

(a) A physician, who meets the criteria under WAC 388-87-007;

(b) An advanced registered nurse practitioner (ARNP), who meets the criteria under WAC 388-87-007; or

(c) A licensed physician assistant.

(7) "Primary care case management (PCCM)" means a model of health care where a physician, ARNP, physician assistant, community/migrant health center, health department, or clinic agrees to provide primary health care services and to arrange and coordinate other preventative, specialty, and ancillary health care in exchange for a contracted payment for each client managed.

(8) "Timely provision of services" means a client has the right to receive medically necessary health care without unreasonable delay.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-050, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-050, filed 8/11/93, effective 9/11/93.]

WAC 388-538-060 Eligible client. (1) The department shall require a client, eligible for certain designated medical program categories, to enroll in managed care when the client resides in the contracted managed care service area, except as provided in WAC 388-538-080.

(2) The department shall assign a client to a plan or a PCCM provider when the client does not choose a plan or PCCM.

(3) The department shall enroll an Indian, as defined under 25 U.S.C. 1603 (c)-(d), in a plan when such plan includes an Indian health service direct care clinic, a tribally-operated clinic, or urban Indian health center and the Indian resides in the plan service area. If an Indian selects another plan or requests an exemption, this subsection shall not apply.

(4) The department shall not enroll Medicare beneficiaries in managed care.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-060, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-060, filed 8/11/93, effective 9/11/93.]

WAC 388-538-070 Managed care payment. The department shall pay for managed care as follows:

(1) Under a capitated system, a set rate to a plan for contracted health care provided to the client;

(2) Under a PCCM model in which the contract is between the department and the health care provider, a monthly management fee in addition to a fee for covered services provided to the client;

(3) Under a PCCM model in which the contract is between the department and a plan, a monthly management fee to the plan to be divided between the plan and the

primary care provider, in addition to a fee to the health care provider for covered services provided to the client.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-070, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-070, filed 8/11/93, effective 9/11/93.]

WAC 388-538-080 Managed care exemptions. (1) The department shall not require a client to enroll in managed care when:

(a) Disruption of care in an established treatment plan with a health care provider, who is not in managed care, would adversely affect the client's health status; or

(b) Medically necessary care is not reasonably available and accessible under managed care offered to the client. The department shall consider medically necessary care not reasonably available and accessible when:

(i) The limited English-speaking or hearing-impaired client can communicate in the client's primary language with a health provider not participating in a plan or under PCCM;

(ii) The distance is over twenty-five miles one-way, travel time greater than forty-five minutes one-way, or other transportation difficulties make it unreasonably difficult for a client to obtain primary medical care under managed care;

(iii) The client is homeless or is expected to reside in temporary housing or a shelter for less than one hundred and twenty days from date the client requests the exemption;

(iv) Before enrollment, a pregnant woman has started prenatal care with an obstetrical provider who is not available under managed care;

(v) The client is an Indian, as defined under 25 U.S.C. 1603 (c)-(d); or

(vi) The client's circumstances, as evaluated by the department on a case-by-case basis, supports the client's claim that medically necessary care is not reasonably available and accessible under managed care, as offered to the client.

(2) A client requesting an exemption from enrolling in managed care shall make a request to the department. The department shall timely notify the client of the exemption decision and the reasons therefor before enrolling the client in managed care. If the department denies the request for exemption, the department shall provide notice containing the following information before enrolling the client in managed care:

(a) Action the department intends to take;

(b) Reasons for the intended action;

(c) The specific rule or regulation supporting the action;

(d) Client's right to request a fair hearing, including the circumstances under which the fee-for-service status is continuing, if a hearing is requested; and

(e) Full translation into the primary language of the limited English proficient recipient.

The client shall remain exempted until a decision is made on the exemption request by the department. The client may request a fair hearing when the client is not satisfied with the department's decision as described under WAC 388-526-2610.

(3) If an exemption is authorized as a result of a time-limited circumstance, the department may limit the time period for which the exemption is granted to the period of time that the circumstance is expected to continue.

(4) The department may offer a client who qualifies for an exemption the option to participate in PCCM with a contracted PCCM provider of the client's choice.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-080, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-080, filed 8/11/93, effective 9/11/93.]

WAC 388-538-090 Client's choice of primary care provider. (1) Each client enrolled in managed care shall have a primary care provider (PCP).

(2) A client shall have an opportunity to choose a PCP from available providers.

(3) A plan shall assign a client to a PCP when the client enrolls in a plan and does not choose PCP in the plan.

(4) A client in managed care shall have the right to change a PCP:

(a) One time during a twelve-month period for any reason; and

(b) For subsequent changes during the twelve-month period, only for documented good cause. If the client is enrolled in managed care with a plan, the client shall notify the plan of the desired change including the name of the new PCP, and the reason for the desired change. If the client is enrolled in a PCCM which does not involve a plan, then the client shall notify the department of the desired change, including the name of the new PCP, and the reason for the desired change.

(5) A client whose request to change PCP is denied may submit a grievance with the plan under WAC 388-538-110 or, if the decision was made by the department, may request a fair hearing under WAC 388-526-2610.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-090, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-090, filed 8/11/93, effective 9/11/93.]

WAC 388-538-095 Medical services. The department shall pay separately, on a fee-for-service basis, only for medical services covered under the department's medical care programs that a managed care contract does not cover.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-095, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-095, filed 8/11/93, effective 9/11/93.]

WAC 388-538-100 Managed care emergency services. (1) The department shall exempt emergencies and emergency transportation services from routine medical care authorization procedures of managed care.

(2) A client shall not be responsible for determining if an emergency exists or for the cost of such determination. For nonemergency conditions, hospital reimbursement for PCCM under WAC 388-87-072(4) shall be limited to a medical evaluation fee as established by the department.

(3) In a medical emergency, the client shall not be financially responsible for covered managed care services provided.

(4) When an emergency does not exist, and the client's PCP does not authorize services, the client shall be financial-

ly responsible for further services received only when the client is informed and agrees, in writing, to the responsibility before receiving the services as described under WAC 388-87-010.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-100, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 95-04-033 (Order 3826), § 388-538-100, filed 1/24/95, effective 2/1/95; 93-17-039 (Order 3621), § 388-538-100, filed 8/11/93, effective 9/11/93.]

WAC 388-538-110 Client grievances. (1) A client aggrieved by a decision of a managed care contractor or the department shall have the right to a fair hearing as required under WAC 388-81-040.

(2) A client enrolled in a plan:

(a) Shall exhaust a plan's grievance procedure before requesting a fair hearing, except as provided in subsection (2)(c) of this section;

(b) Shall receive a written decision containing the following information:

(i) Action the plan intends to take;

(ii) Reasons for the intended action;

(iii) The specific information supporting the action;

(iv) Client's right to request a fair hearing;

(v) Full translation into the primary language of the limited English proficient recipient.

(c) May request a fair hearing when a:

(i) Grievance decision is adverse;

(ii) Plan does not respond in writing within thirty days from the date the client requests the grievance.

(3) The client may request a fair hearing at the same time a grievance is filed when:

(a) The plan denies medical care that a client indicates is urgently needed and the client requests a grievance in writing; or

(b) The subject matter of the grievance is one for which a client has a fair hearing right under chapters 34.05 RCW, 388-08 WAC, or this chapter.

(4) The managed care contractor shall advise a client of the client's right to request a fair hearing at the time the contractor notifies the client of the grievance decision.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-110, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 94-04-038 (Order 3701), § 388-538-110, filed 1/26/94, effective 2/26/94; 93-17-039 (Order 3621), § 388-538-110, filed 8/11/93, effective 9/11/93.]

WAC 388-538-120 Client request for a second medical opinion. (1) The client enrolled in managed care shall have the right to a second opinion by another physician or specialist:

(a) When the client needs more information as to the medical necessity of medical treatment recommended by the PCP; or

(b) If the client believes the PCP is not authorizing medically necessary care.

(2) If the client is enrolled in a plan, the second opinion physician or specialist shall be a participating provider in the plan. If the client is enrolled with a PCCM, which does not involve a plan, the client shall have the right to a second opinion by another provider or specialist, who is a medical assistance provider.

(3) When medically necessary, the client shall be promptly referred to:

(a) Another participating physician or specialist of a plan, when enrolled in a plan; or

(b) Another provider or specialist when enrolled under PCCM, which does not involve a plan.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-120, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-120, filed 8/11/93, effective 9/11/93.]

WAC 388-538-130 Enrollment termination and disenrollments. (1) The department may terminate enrollment of a client in managed care when a:

(a) Client loses eligibility for a medical eligibility category which requires enrollment;

(b) Client requests and the department approves disenrollment under the conditions for granting exemptions under WAC 388-538-080;

(c) Client requests disenrollment and is an Indian, as defined under 25 U.S.C. 1603 (c)-(d); or

(d) Client is a Medicare beneficiary.

(2) When a client requests disenrollment under subsection (1)(b) of this section, the client shall remain enrolled in managed care until the decision is made on the disenrollment request unless continuing in managed care pending the decision would adversely affect the client's health status.

(3) Managed care contractors may request a client be disenrolled if the managed care contractor establishes, in writing, to the department's satisfaction that:

(a) The client's behavior is inconsistent with the managed care contractor's rules and regulations, such as intentional misconduct;

(b) The behavior is such that it has become medically infeasible to safely or prudently provide medical care; and

(c) The managed care contractor has offered to the client, in writing, the opportunity to utilize the grievance procedure described in WAC 388-538-110, unless the client's conduct presents the threat of imminent harm to others.

(4) When a managed care contractor makes a request to disenroll a client as described in subsection (3) of this section, the client shall not be disenrolled until the department approves the contractor's request. The department shall make a decision on the request within thirty days from the day of receipt of the request after contacting the client, if possible, to learn the client's perspective. The department shall notify the client ten days in advance of the effective date of disenrollment.

(5) Managed care contractors shall not request disenrollment of a client solely due to an adverse change in the client's health or the cost of meeting the client's health care needs.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-130, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-130, filed 8/11/93, effective 9/11/93.]

WAC 388-538-140 Quality of care. The department shall require:

(1) A plan to appoint a medical director or designee who:

(a) Shall be responsible for the plan's quality assurance program and shall review all plan grievances; and

(b) Furnishes MAA with a copy of all grievances and a plan's response to such grievances.

(2) A PCCM not involving a plan to provide adequate documentation for quality assurance review.

(3) A plan or PCCM to have in place a method to assure consideration of the unique needs of persons with special health care needs as defined in WAC 388-538-050 and to assist with:

(a) Early identification of persons with special health care needs;

(b) Timely access to health care; and

(c) Coordination of health service delivery and community linkages.

(4) The department shall conduct outreach of various types to accommodate the unique communication needs of some members of the populations served.

(5) The department shall ensure that clients are given the most important relevant information and a variety of ways to enroll or request exemptions and disenrollments.

(6) The plan or PCCM shall make reasonable and appropriate accommodations as required under the Americans with Disabilities Act (ADA) for clients who have a mental, physical, or sensory impairment or another limitation which affects the clients' abilities to understand written notices and/or other types of communications.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-140, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-140, filed 8/11/93, effective 9/11/93.]

WAC 388-538-150 Managed care medical audit. (1) At least once a year, the department shall conduct a medical audit of managed care contractors to ensure the quality and accessibility of health care services provided or arranged by the contractors for enrolled clients.

(2) Managed care contractors shall permit such medical audit.

(3) The department may conduct or contract independently for such medical audit.

[Statutory Authority: RCW 74.08.090 and 1995 2nd sp.s. c 18. 95-18-046 (Order 3886), § 388-538-150, filed 8/29/95 effective 9/1/95. Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-150, filed 8/11/93, effective 9/11/93.]

Title 390 WAC
PUBLIC DISCLOSURE COMMISSION

Chapters

Chapter 390-17 WAC
CONTRIBUTION LIMITATIONS

WAC

WAC 390-17-400 Time limit to solicit or accept contributions. For purposes of complying with RCW 42.17.710:

(1) "Campaign debt," as used in RCW 42.17.710, means any debt incurred by a candidate seeking election to a nonfederal public office, including campaigns for state, county, city, town, school district, special district or other state political subdivision elective office.

(2) "Legislative caucus" means the caucus of members of a major political party in the state house of representatives or in the state senate.

(3) "Legislative session freeze period" means the period of time in RCW 42.17.710 within which contributions shall not be solicited or accepted by a state official or a person employed by or acting on behalf of a state official.

(a) The freeze period begins at 12:01 a.m. on the thirtieth day before the start of the regular legislative session and ends at 11:59 p.m. on the thirtieth day following adjournment of the regular legislative session.

(b) If a special session is held immediately following the end of the regular legislative session, this period ends on the day the special session adjourns or at 11:59 p.m. on the thirtieth day following adjournment of the regular legislative session, whichever is later.

(c) If a special session is held other than within 30 days before or after a regular legislative session, the freeze period begins at 12:01 a.m. on the first day of the special session and ends at 11:59 p.m. on the final day of the special session.

(4) A successful candidate for state office who does not already hold a state office is not required to comply with RCW 42.17.710 until sworn into office.

(5) An unsuccessful incumbent state official must comply with RCW 42.17.710 until his or her term expires.

(6) A state official may solicit or accept contributions during the legislative session freeze period to assist his or her campaign for a federal office.

(7) A state official is not prohibited from accepting gifts and other items permitted under chapter 42.52 RCW during the legislative session freeze period so long as the gift or other item is not (a) used to defray nonreimbursed public office related expenses, (b) a contribution to a candidate or authorized committee, or (c) used to retire a campaign debt.

(8) During the legislative session freeze period, no person shall solicit or accept contributions on behalf of or for the benefit of a state official for the purpose of retiring a campaign debt of the state official or raising funds for a state official's future election to a nonfederal public office.

(9) During the legislative session freeze period, a bona fide political party shall not solicit or accept contributions on behalf of or for the benefit of a state official for the purpose of retiring a campaign debt of the state official or raising funds for a state official's future election to a nonfederal public office. However, a bona fide political party may