

WSR 23-22-007
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 19, 2023, 8:18 a.m., effective October 26, 2023]

Effective Date of Rule: October 26, 2023.

Purpose: The department is extending emergency amendments to WAC 388-484-0005 There is a five-year (sixty-month) time limit for TANF, SFA, and GA-S cash assistance, and 388-484-0006 TANF/SFA time limit extensions, to remove the 60-month time limit for child-only temporary assistance for needy families (TANF) and state family assistance households with an ineligible parent, per 2SHB 1447 (chapter 418, Laws of 2023).

Citation of Rules Affected by this Order: Amending WAC 388-484-0005 and 388-484-0006.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.010, and 74.08A.015.

Other Authority: 2SHB 1447 (chapter 334, Laws of 2023).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These amendments meet implementation requirements for 2SHB 1447 (chapter 418, Laws of 2023), allowing certain families exceeding the 60-month lifetime TANF time limit access to benefits needed to sustain basic needs.

The department is concurrently proceeding with the permanent rule-making process. Refer to CR-101 filed as WSR 23-13-093 on June 20, 2023, and CR-102 [filed as] WSR 23-20-101 on October 3, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: October 17, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4980.6

AMENDATORY SECTION (Amending WSR 12-05-039, filed 2/10/12, effective 3/12/12)

WAC 388-484-0005 There is a five-year (~~((sixty))~~ 60-month) time limit for TANF, SFA, and GA-S cash assistance. (1) What is the (~~((sixty))~~ 60-month time limit?

(a) You can receive cash assistance for temporary assistance for needy families (TANF), state family assistance (SFA), and general assistance for pregnant women (GA-S) for a lifetime limit of (~~((sixty))~~ 60 months. The time limit applies to cash assistance provided by any combination of these programs, and whether or not it was received in consecutive months.

(b) If you receive cash assistance for part of the month, it counts as a whole month against the time limit.

(c) If you have received cash assistance from another state on or after August 1, 1997, and it was paid for with federal TANF funds, those months will count against your time limit.

(d) The time limit does not apply to diversion cash assistance, support services, food assistance, or medicaid.

(2) When did the (~~((sixty))~~ 60-month time limit go into effect?

The (~~((sixty))~~ 60-month time limit applies to cash assistance received on or after August 1, 1997, for TANF and SFA. Although the GA-S program no longer exists, the time limit applies to GA-S cash assistance received from May 1, 1999, through July 31, 1999.

(3) Does the time limit apply to me?

~~((a))~~ The (~~((sixty))~~ 60-month time limit applies to you for any month in which you are ~~((an ineligible parent or a))~~ an aided parent or other relative as defined in WAC 388-454-0010, or ~~((a))~~ an aided minor parent emancipated through court order or marriage.

~~((b) An ineligible parent is a natural, adoptive or step parent as defined in WAC 388-454-0010 who receives a TANF/SFA grant for his or her child but is ineligible to receive TANF/SFA assistance.)~~

(4) Do any exceptions to the time limits apply to me?

The department does not count months of assistance towards the (~~((sixty))~~ 60-month time limit if you are:

(a) A relative other than a parent as defined in WAC 388-454-0010(3);

(b) An ineligible parent who is a natural, adoptive, or stepparent as defined in WAC 388-454-0010 who receives TANF/SFA grant for their child, but is ineligible to receive TANF/SFA assistance such as:

(i) A parent who is ineligible due to receiving supplemental security income (SSI) benefits,

(ii) A parent who is ineligible due to citizenship, or

(iii) A parent who is ineligible due to felony status;

~~((a))~~ (c) An adult caretaker, other than an ineligible parent, as described in WAC 388-454-0005 through 388-454-0010, who is not a member of the assistance unit and ~~((you are))~~ is receiving cash assistance on behalf of a child;

~~((b))~~ (d) An unemancipated pregnant or parenting minor living in a department approved living arrangement as defined by WAC 388-486-0005; or

~~((e))~~ (e) An adult ~~((and you are))~~ living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan native village, ~~((and you are))~~ receiving TANF, SFA, or GA-S cash assistance during a period when at least ~~((fifty percent))~~ 50% of the adults living in Indian country or in the village were not employed. See WAC 388-484-0010.

~~(5) ((What happens if an ineligible parent in the home or a member of my assistance unit has received sixty months of TANF, SFA, and GA-S cash benefits?~~

~~Once any adult or emancipated minor in the assistance unit has received sixty months of cash assistance, or an ineligible parent in the home has received sixty months of cash assistance for themselves or their child, the entire assistance unit becomes ineligible for TANF or SFA cash assistance, unless they qualify for a hardship extension and are eligible for an extended period of cash assistance called a TANF/SFA time limit extension under WAC 388-484-0006.~~

~~(6-)) What can I do if I disagree with how the department has counted my months of cash assistance?~~

~~(a) If you disagree with how we counted your months of cash assistance, you may ask for a hearing within ((ninety)) 90 days of the date we sent you a letter telling you how many months we are counting.~~

~~(b) You will get continued benefits (the amount you were getting before the change) if:~~

~~(i) You have used all ((sixty)) 60 months of benefits according to our records; and~~

~~(ii) You ask for a hearing within the ((ten)) 10-day notice period, as described in chapter 388-458 WAC.~~

~~(c) If you get continued benefits and the administrative law judge (ALJ) agrees with our decision, you may have to pay back the continued benefits after the hearing, as described in chapter 388-410 WAC.~~

~~((7-)) (6) Does the department ever change the number of months that count against my time limit?~~

~~We change the number of months we count in the following situations:~~

~~(a) You repay an overpayment for a month where you received benefits but were not eligible for any of the benefits you received. We subtract one month for each month that you completely repay. If you were eligible for some of the benefits you received, we still count that month against your time limit.~~

~~(b) We did not close your grant on time when the division of child support (DCS) collected money for you that was over your grant amount two months in a row, as described in WAC 388-422-0030.~~

~~(c) An ALJ decides at an administrative hearing that we should change the number of months we count.~~

~~(d) You start getting worker's compensation payments from the department of labor and industries (L&I) and your L&I benefits have been reduced by the payments we made to you.~~

~~(e) You participated in the excess real property (ERP) program in order to get assistance and we collected the funds when your property sold.~~

~~(f) Another state gave us incorrect information about the number of months you got cash assistance from them.~~

AMENDATORY SECTION (Amending WSR 23-01-020, filed 12/8/22, effective 1/8/23)

WAC 388-484-0006 TANF/SFA time limit extensions. (1) What happens after I receive 60 or more months of TANF/SFA cash assistance?

After you receive 60 or more months of TANF/SFA cash assistance according to WAC 388-484-0005, you may qualify for additional months

of cash assistance. We call these additional months of TANF/SFA cash assistance a hardship TANF/SFA time limit extension.

(2) Who is eligible for a hardship TANF/SFA time limit extension?

You are eligible for a hardship TANF/SFA time limit extension if you are on TANF, are otherwise eligible for TANF, (~~or are an ineligible parent, and you have~~) received 60 cumulative months of TANF and you:

(a) (~~You~~) Are approved for one of the exemptions from mandatory participation according to WAC 388-310-0350 (1)(a) through (d) (~~or you are an ineligible parent who meets the criteria for an exemption from mandatory WorkFirst participation~~); or

~~(b) You:~~

~~((i))~~ (b) Are a (~~supplemental security income recipient or a~~) Social Security disability insurance recipient; or

~~(ii))~~ (c) Are at least 65 years old, blind as defined by the Social Security Administration or disabled as determined under chapter 388-449 WAC; or

~~(iii))~~ (d) Have an open child welfare case with a state or tribal government and this is the first time you have had a child dependent under RCW 13.34.030 in this or another state or had a child a ward of a tribal court; or

~~(iv))~~ (e) Are working in unsubsidized employment for 32 hours or more per week; or

~~(v))~~ (f) Document that you meet the family violence option criteria in WAC 388-61-001 and are participating satisfactorily in specialized activities needed to address your family violence according to a service plan developed by a person trained in family violence or have a good reason, as described in WAC 388-310-1600(3) for failure to participate satisfactorily in specialized activities; or

~~(vi))~~ (g) Are homeless by reason of hardship, including when your family includes a child or youth who is without a fixed regular, and adequate nighttime residence as described in the federal McKinney-Vento Homeless Assistance Act (Title 42, U.S.C. 11434a(2), chapter 119, subchapter VI, part B) as it existed on January 1, 2020; or

~~(vii) Are)~~ (h) Were an active TANF recipient from July 1, 2021, through June 30, 2023; or

~~(viii) Are)~~ (i) Were an active TANF recipient, beginning July 1, 2022, when Washington state employment security department's most recently published unemployment rate is seven percent or above.

~~(ix))~~ (j) Do not qualify for other time limit extension criteria in this section and received TANF during a month on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above. The extension provided for under this subsection (2)(b)(ix) is equal to the number of months that you received TANF on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above.

(3) Who reviews and approves a hardship time limit extension?

(a) Your case manager or social worker will review your case and determine whether a hardship time limit extension type will be approved.

(b) This review will not happen until after you have received at least 52 months of assistance but before you reach your time limit or lose cash assistance due to the time limit.

(c) Before you reach your time limit or lose cash assistance due to the time limit, the department will send you a notice that tells you whether a hardship time limit extension will be approved, when

your time limit expires, and how to request an administrative hearing if you disagree with the decision.

(4) When I have an individual responsibility plan, do my Work-First participation requirements change when I receive a hardship TANF/SFA time limit extension?

(a) Even if you qualify for a hardship TANF/SFA time limit extension you will still be required to participate as required in your individual responsibility plan (WAC 388-310-0500). You must still meet all of the WorkFirst participation requirements listed in chapter 388-310 WAC while you receive a hardship TANF/SFA time limit extension.

(b) If you do not participate in the WorkFirst activities required by your individual responsibility plan, and you do not have a good reason under WAC 388-310-1600, the department will follow the sanction rules in WAC 388-310-1600.

(5) Do my benefits change if I receive a hardship TANF/SFA time limit extension?

~~((a))~~ You are still a TANF/SFA recipient ~~((or an ineligible parent who is receiving TANF/SFA cash assistance on behalf of your child))~~ and your cash assistance, services, or supports will not change as long as you continue to meet all other TANF/SFA eligibility requirements.

~~((b))~~ During the hardship TANF/SFA time limit extension, you must continue to meet all other TANF/SFA eligibility requirements. If you no longer meet TANF/SFA eligibility criteria during your hardship time limit extension, your benefits will end.

(6) How long will a hardship TANF/SFA time limit extension last?

(a) We will review your hardship TANF/SFA time limit extension and your case periodically for changes in family circumstances:

(i) If you are extended under WAC 388-484-0006 (2) (a) ~~((, (b) (i) or (ii))~~) then we will review your extension at least every 12 months;

(ii) If you are extended under WAC 388-484-0006 (2) (b) ~~((iii))~~, ~~((iv), (v), or (vi))~~ (2) (c), (2) (d), or (2) (e) then we will review your extension at least every six months.

(b) Your hardship TANF/SFA time limit extension may be renewed for as long as you continue to meet the criteria to qualify for a hardship time limit extension.

(c) If during the extension period we get proof that your circumstances have changed, we may review your case and determine if you continue to qualify for a hardship TANF/SFA time limit extension. When you no longer qualify for a hardship TANF/SFA time limit extension we will stop your TANF/SFA cash assistance. You will be notified of your case closing and will be given the opportunity to request an administrative hearing before your benefits will stop.

WSR 23-22-008
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed October 19, 2023, 8:32 a.m., effective October 24, 2023]

Effective Date of Rule: October 24, 2023.

Purpose: The developmental disabilities administration (DDA) is enacting these amendments on an emergency basis to align with SB 5252 (2023) and FBI background check requirements.

Citation of Rules Affected by this Order: Amending WAC 388-825-335, 388-825-615, and 388-825-620.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 43.43.837 and 74.39A.056.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Enacting amendments to WAC 388-825-335 and 388-825-620 on an emergency basis is necessary to comply with FBI background check requirements and to conduct background checks necessary to receive federal funding. Enacting amendments to WAC 388-825-615 is necessary to align with amendments to SB 5252. This is the second emergency filing on these sections and is necessary to keep the rules in effect while DDA completes the permanent rule-making process. DDA is proceeding with permanent adoption and filed a CR-102 proposal under WSR 23-20-108.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

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

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

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

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

Date Adopted: October 17, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4986.2

AMENDATORY SECTION (Amending WSR 14-14-029, filed 6/24/14, effective 7/25/14)

WAC 388-825-335 Is a background check required of a long-term care worker employed by a home care agency licensed by the department of health? (1) In order to be a long-term care worker employed by a home care agency, a person must:

(a) Complete the required DSHS form authorizing a background check.

(b) Disclose any disqualifying criminal convictions and pending charges as listed in chapter 388-113 WAC, and also disclose civil adjudication proceedings and negative actions as those terms are defined in WAC (~~(388-71-0512)~~) 388-113-0030.

(c) Effective January 8, 2012, be screened through Washington state's name and date of birth background check, (Preliminary results may require a thumb print for identification purposes); and

(d) Effective January 8, 2012, be screened through the Washington state and national fingerprint-based background check, as required by RCW 74.39A.056.

(2) Results of background checks are provided to the department and the employer or potential employer for the purpose of determining whether the person:

(a) Is disqualified based on a disqualifying criminal conviction or a pending charge for a disqualifying crime (~~(as listed in)~~) under WAC 388-113-0020, civil adjudication proceeding, or negative action (~~(as defined in)~~) under WAC (~~(388-71-0512 and listed in WAC 388-71-0540)~~) 388-113-0030; or

(b) Should or should not be employed based on his or her character, competence, and/or suitability.

(3) For those providers listed in RCW 43.43.837(1), a second national fingerprint-based background check is required if they have lived out of the state of Washington since the first national fingerprint-based background check was completed.

(4) The department may require a long-term care worker to have a Washington state name and date of birth background check (~~(or)~~) at any time and a Washington state and national fingerprint-based background check (~~(, or both, at any time.)~~) if information is disclosed or found regarding new:

(a) Pending charges;

(b) Convictions; or

(c) Negative actions.

AMENDATORY SECTION (Amending WSR 23-07-130, filed 3/22/23, effective 4/22/23)

WAC 388-825-615 What type of background check is required? (1) Beginning January 7, 2012, long-term care workers, including parents and individual providers, undergoing a background check for initial hire or initial contract, must be screened through a Washington state name and date of birth check and a national fingerprint-based background check.

(2) Beginning January 1, 2016, a newly hired long-term care worker employed by a community residential service business must be screened through a Washington state name and date of birth check and a national fingerprint-based background check.

(a) For a renewal, a person who has continuously resided in Washington state for the past three consecutive years must be screened through a Washington state name and date of birth check.

(b) For a renewal, a person who has resided outside of Washington state in the past three years must be screened through a Washington state name and date of birth check and a national fingerprint-based background check.

(3) For adult family homes, refer to chapter 388-76 WAC. For assisted living facilities, refer to chapter 388-78A WAC.

(4) Beginning July ((1)) 23, 2023, a residential habilitation center applicant undergoing a background check for initial hire must be screened through a Washington state name and date of birth check and a national fingerprint-based background check.

(5) All background checks must be completed through the background check system.

AMENDATORY SECTION (Amending WSR 23-07-130, filed 3/22/23, effective 4/22/23)

WAC 388-825-620 How often must a background check be renewed?

(1) DDA requires a background check at least every three years, or more frequently if required by program rule.

(2) A background check renewal will be conducted as follows:

(a) Individuals who have continuously resided in Washington state for the past three consecutive years will be screened through a state name and date of birth background check.

(b) Individuals who have lived outside of Washington state within the past three years will be screened through a state name and date of birth check and a national fingerprint-based background check.

(c) Individuals who live outside of Washington state and provide services in Washington state will be screened through a Washington state name and date of birth check and a national fingerprint-based background check.

(3) The department may require a long-term care worker to have a renewed Washington state name and date of birth background check at any time and a Washington state and national fingerprint-based background check if information is disclosed or found regarding new:

(a) Pending charges;

(b) Convictions; or

(c) Negative actions.

WSR 23-22-009
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed October 19, 2023, 9:05 a.m., effective October 24, 2023]

Effective Date of Rule: October 24, 2023.

Purpose: The developmental disabilities administration (DDA) is enacting these changes on an emergency basis in order to align with amendments to home and community-based services waivers as approved by the Centers for Medicare and Medicaid Services.

Citation of Rules Affected by this Order: Amending WAC 388-845-1105, 388-845-1505, and 388-845-3062.

Statutory Authority for Adoption: RCW 34.05.350, 71A.12.030, 71A.12.120.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Enacting these rules on an emergency basis is necessary to ensure federal compliance and maintain federal funding for the state. Aligning rules with approved waiver amendments provides assurances required under 42 C.F.R. 441.301. This is the second emergency filing on these sections and is necessary to keep the amendments in effect until DDA completes the permanent rule-making process. DDA is proceeding with permanent adoption and filed the CR-102 for these sections under WSR 23-22-001.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

Date Adopted: October 19, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4988.1

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1105 Who is a qualified provider of stabilization services - crisis diversion bed? Providers of stabilization services - crisis diversion beds must be:

- (1) DDA certified residential agencies per chapter 388-101 WAC;

- (2) Other department licensed or certified agencies; ((~~or~~))
- (3) State-operated agencies(~~(-)~~); or
- (4) Other agencies licensed by the department of children, youth, and families under chapter 110-145 WAC and contracted with DDA to provide services under chapter 388-833 WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1505 Who are qualified providers of residential habilitation services for the core waiver? Providers of residential habilitation services for participants in the core waiver must be one of the following:

- (1) Individuals contracted with DDA to provide residential support as a "companion home" provider;
- (2) Individuals and agencies contracted with DDA to provide ~~((training))~~ services as an ~~(("))~~ alternative living provider~~(("))~~ under chapter 388-829A WAC;
- (3) Agencies contracted with DDA and certified per chapter 388-101 WAC;
- (4) State-operated living alternatives (SOLA); or
- (5) Licensed and contracted:
 - (a) Group care facilities and staffed residential homes under chapter 110-145 WAC;
 - (b) Child foster homes under chapter 110-148 WAC; or
 - (c) Child placing agencies under chapter 110-147 WAC.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-3062 Who is required to sign the person-centered service plan and how can it be signed? (1) If you do not have a legal representative, you must sign the person-centered service plan.

(2) If you have a legal representative, your legal representative must sign the person-centered service plan.

(3) If you need assistance to understand your person-centered service plan, DDA will follow the steps outlined in WAC 388-845-3056 (1) and (3).

(4) You choose how to sign your person-centered service plan - with a pen, an electronic signature, or a voice signature.

WSR 23-22-010
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed October 19, 2023, 9:10 a.m., effective October 24, 2023]

Effective Date of Rule: October 24, 2023.

Purpose: The developmental disabilities administration (DDA) is enacting these changes on an emergency basis to prepare for implementation of HB 1407 (2023), which stipulates that DDA's rules must not "terminate or require redetermination of eligibility for a child under the age of 18 based solely on the child's age if the child has been determined to be eligible for services on or after the child's third birthday."

Citation of Rules Affected by this Order: Amending WAC 388-823-0600, 388-823-0610, 388-823-1005, and 388-823-1010.

Statutory Authority for Adoption: RCW 34.05.350 and 71A.16.040.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Enacting these rules on an emergency basis is necessary in order to align DDA's eligibility review rules with amendments to RCW 71A.16.040, which are effective July 23, 2023. This is the second emergency filing on these sections and is necessary to keep the rules in effect until DDA completes the permanent rule-making process. DDA is proceeding with permanent adoption and has filed a CR-102 under WSR 23-22-002.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

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

Date Adopted: October 19, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4985.4

AMENDATORY SECTION (Amending WSR 18-15-046, filed 7/13/18, effective 8/13/18)

WAC 388-823-0600 How do I show that I have another neurological or other condition similar to intellectual disability? In order to be

considered for eligibility under the category of another neurological or other condition similar to intellectual disability you must:

(1) Be age four or older and have a diagnosis by a licensed physician of a neurological or chromosomal disorder that:

- (a) Originated before age (~~(eighteen)~~) 18;
- (b) Is known by reputable authorities to cause intellectual and adaptive skills deficits;
- (c) Is expected to continue indefinitely without improvement;
- (d) Is other than intellectual disability, autism, cerebral palsy, or epilepsy;
- (e) Is not attributable to nor is itself a mental illness, or emotional, social, or behavior disorder; and
- (f) Has resulted in substantial functional limitations.

(2) Be receiving fee-for-service medically intensive children program (MICP) services under chapter 182-551 WAC, and have been continuously eligible for DDA due solely to your MICP eligibility since before August 13, 2018; or

(3) Be under the age of (~~(ten)~~) 20 and have one or more developmental delays.

AMENDATORY SECTION (Amending WSR 18-15-046, filed 7/13/18, effective 8/13/18)

WAC 388-823-0610 If I have another neurological or other condition similar to intellectual disability, how do I meet the definition of substantial functional limitations? If you have an eligible condition of another neurological or other condition similar to intellectual disability, in order to meet the definition of substantial functional limitations you must have impairments in both intellectual abilities and adaptive skills, which are separate from any impairment due to an unrelated mental illness, or emotional, social, or behavioral disorder.

(1) For WAC 388-823-0600(1) evidence of substantial functional limitations requires documentation of (a) and (b) below:

(a) For impairment in intellectual abilities, either subsection (i) or (ii) or (iii) of this section:

(i) An FSIQ score of more than 1.5 standard deviations below the mean under WAC 388-823-0720 and subject to all of WAC 388-823-0720 and WAC 388-823-0730;

(ii) If you are under the age of (~~(twenty)~~) 20, significant academic delays defined as delays of more than two standard deviations below the mean at the time of testing in both broad reading and broad mathematics; or

(iii) A statement by a licensed physician, a licensed psychologist, or a school psychologist that your condition is so severe that you are unable to demonstrate the minimal skills required to complete testing for an FSIQ.

(b) For impairment in adaptive skills, a score of more than two standard deviations below the mean under WAC 388-823-0740 and subject to all of WAC 388-823-0740 and WAC 388-823-0750.

(2) For WAC 388-823-0600(2) you do not need additional evidence of your substantial functional limitations if your eligible condition is solely due to your eligibility and participation in the fee-for-service medically intensive children program under chapter 182-551 WAC.

(3) For WAC 388-823-0600(3) evidence of substantial functional limitations requires documentation of (a) or (b) or (c) below:

(a) You are under the age of three and have one or more developmental delays under WAC 388-823-0770;

(b) You are under the age of three and meet the ESIT eligibility requirements; or

(c) You are under the age of ~~((ten))~~ 20 and have three or more developmental delays under WAC 388-823-0770.

AMENDATORY SECTION (Amending WSR 18-15-046, filed 7/13/18, effective 8/13/18)

WAC 388-823-1005 When does my eligibility as a DDA client expire? (1) If you are determined eligible before age three, your eligibility expires on your fourth birthday.

(2) If you are determined eligible ~~((at age three but under age ten under))~~ with developmental delays ~~((or Down syndrome))~~ after your third birthday, your eligibility expires on your ~~((tenth))~~ 20th birthday.

(3) DDA will notify you at least six months before your eligibility expiration date.

(4) If your eligibility expires, you must reapply in order to maintain eligibility with DDA.

(5) If you fail to reapply before your expiration date or if DDA receives your reapplication less than ~~((sixty))~~ 60 days before your expiration date and DDA does not have sufficient time to make an eligibility determination by the date of expiration, DDA eligibility will expire and your DDA paid services will stop.

(a) If DDA determines you eligible after your eligibility expires, your eligibility will be reinstated on the date that DDA determines you eligible under WAC 388-823-0100.

(b) If DDA determines you eligible after your eligibility expires, your eligibility will not be retroactive to the expiration date.

(6) This expiration of eligibility takes effect even if DDA is unable to locate you to provide written notification that eligibility is expiring.

(7) There is no appeal right to eligibility expiration.

AMENDATORY SECTION (Amending WSR 19-14-119, filed 7/3/19, effective 8/3/19)

WAC 388-823-1010 When will DDA review my eligibility to determine if I continue to meet the eligibility requirements for DDA? (1) DDA will review your eligibility:

(a) If you are age ~~((nineteen))~~ 19 and your most recent eligibility determination was completed before your ~~((sixteenth))~~ 16th birthday unless you were determined eligible under developmental delay;

(b) If you are age ~~((nineteen))~~ 19 and were determined eligible under another neurological or other condition similar to intellectual disability and have used academic delays as evidence of your substantial functional limitations;

(c) Before authorization of any DDA-paid service if you are not currently receiving paid services and your most current eligibility determination was made before June 1, 2005;

(d) If the evidence used to make your most recent eligibility determination is insufficient, contains an error, or appears fraudulent;

(e) If new information becomes available that does not support your current eligibility determination; or

(f) If you were determined eligible due solely to your eligibility for fee-for-service (FFS) medically intensive children's program (MICP) services and you are no longer eligible for FFS MICP services.

(2) If DDA requires additional information to make a determination of eligibility during a review and you do not provide sufficient information, DDA will terminate your eligibility:

(a) On your (~~twentieth~~) 20th birthday if the review is because you are age (~~nineteen~~) 19; or

(b) (~~Ninety~~) 90 days after DDA requests the information if the review is because:

(i) You have requested a paid service;

(ii) The evidence used to make your most recent eligibility determination is insufficient, contains an error, or appears fraudulent;

(iii) New information is available that does not support your current eligibility determination; or

(iv) You are no longer eligible for FFS MICP services under chapter 182-551 WAC.

WSR 23-22-015
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 19, 2023, 11:51 a.m., effective October 26, 2023]

Effective Date of Rule: October 26, 2023.

Purpose: The department is extending emergency amendments to WAC 388-474-0012 What is a state supplemental payment and who can get it? and 388-478-0055 How much do I get from my state supplemental payments (SSP)? These amendments update the SSP standard rate for individuals who are receiving care in a medical institution or residential setting. This rate is based off the Washington state institutional personal needs allowance (PNA) standard which increased due to the passage of HB 1128 (chapter 201, Laws of 2023), effective July 1, 2023.

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

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

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These amendments, which are currently in place via emergency rule-making order filed as WSR 23-14-065, update the SSP standard rate for individuals who are receiving care in a medical institution or residential setting. This rate is based off the Washington state institutional PNA standard which increased due to the passage of HB 1128 (chapter 201, Laws of 2023), effective July 1, 2023. The department is actively undertaking procedures to permanently adopt these amendments. Refer to CR-101 filed as WSR 23-14-068 on June 28, 2023, and CR-102 filed as WSR 23-17-121 on August 18, 2023.

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

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

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

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

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

Date Adopted: October 17, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4987.2

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

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

(2) You can get an SSP if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

((SSP-eligible persons	Standard
Individual (aged 65 and older)	\$38.25
Individual (blind as determined by SSA)	\$38.25
Individual with an ineligible spouse	\$38.25
Grandfathered (MIL)	Varies by individual based on federal requirements. Payments range between \$0.54 and \$199.77.)

((Medical institution Individual	Monthly SSP Rate \$40.00))
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(a) \$38.25 for:

- (i) Individuals with an ineligible spouse;
- (ii) Aged 65 and older;
- (iii) Blind as determined by SSA; or
- (iv) Disabled as determined by SSA.

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

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

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

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

(b) The current payment standard.

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

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

WSR 23-22-018
EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed October 20, 2023, 7:52 a.m., effective October 20, 2023, 7:52 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To comply with federal law, the agency is extending the time period of parole for certain Afghan refugees to qualify for refugee medical assistance.

Citation of Rules Affected by this Order: Amending WAC 182-503-0535 and 182-507-0135.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Section 1501 of the Consolidated Appropriations Act, 2023.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The federal Consolidated Appropriations Act, 2023 (P.L. 117-328, div. M, title V, § 1501, December 29, 2022) amended subsection (a)(1)(A) of section 2502 of the Afghanistan Supplemental Appropriations Act, 2022 (division C of P.L. 117-43) by striking "September 30, 2022" and inserting "September 30, 2023." Since the first emergency filing, the agency filed proposed rules under WSR 23-17-134, held a public hearing on September 26, 2023, and filed permanent rules under WSR 23-20-043 which are effective October 28, 2023. This emergency is necessary to cover the gap between the expiration of the previous emergency filing and the effective date of the permanent filing.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: October 20, 2023.

Wendy Barcus
Rules Coordinator

OTS-4705.1

AMENDATORY SECTION (Amending WSR 22-20-074, filed 9/30/22, effective 10/31/22)

WAC 182-503-0535 Washington apple health—Citizenship and immigration status. (1) Definitions.

(a) **Nonqualified alien** means someone who is lawfully present in the United States (U.S.) but who is not a qualified alien, a U.S. citizen, a U.S. national, or a qualifying American Indian born abroad.

(b) **Qualified alien** means someone who is lawfully present in the United States and who is one or more of the following:

(i) A person lawfully admitted for permanent residence (LPR).

(ii) An abused spouse or child, a parent of an abused child, or a child of an abused spouse who no longer resides with the person who committed the abuse, and who has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse of an unmarried LPR younger than 21 years of age.

(B) Proof of a pending application for suspension of deportation or cancellation of removal under the Violence Against Women Act (VAWA).

(C) A notice of prima facie approval of a pending self-petition under VAWA. An abused spouse's petition covers his or her child if the child is younger than 21 years of age. In that case, the child retains qualified alien status even after he or she turns 21 years of age.

(iii) A person who has been granted parole into the U.S. for one year or more, under the Immigration and Nationality Act (INA) Section 212 (d) (5), including public interest parolees.

(iv) A member of a Hmong or Highland Laotian tribe that rendered military assistance to the U.S. between August 5, 1964, and May 7, 1975, including the spouse, unremarried widow or widower, and unmarried dependent child of the tribal member.

(v) A person who was admitted into the U.S. as a conditional entrant under INA Section 203 (a) (7) before April 1, 1980.

(vi) A person admitted to the U.S. as a refugee under INA Section 207.

(vii) A person who has been granted asylum under INA Section 208.

(viii) A person granted withholding of deportation or removal under INA Section 243(h) or 241 (b) (3).

(ix) A Cuban or Haitian national who was paroled into the U.S. or given other special status.

(x) An Amerasian child of a U.S. citizen under 8 C.F.R. Section 204.4(a).

(xi) A person from Iraq or Afghanistan who has been granted one of the following:

(A) Special immigrant status under INA Section 101 (a) (27);

(B) Special immigrant conditional permanent resident; or

(C) Parole under Section 602 (b) (1) of the Afghan Allies Protection Act of 2009 or Section 1059(a) of the National Defense Authorization Act of 2006.

(xii) An Afghan granted humanitarian parole between July 31, 2021, and September 30, ((2022)) 2023, their spouse or child, or a parent or guardian of an unaccompanied minor who is granted parole after September 30, 2022, under Section 2502 of the Extending Government Funding and Delivering Emergency Assistance Act of 2021.

(xiii) A citizen or national of Ukraine (or a person who last habitually resided in Ukraine) who, under section 401 of the Additional Ukraine Supplemental Appropriations Act, 2022 (AUSAA), was:

(A) Granted parole into the United States between February 24, 2022, and September 30, 2023; or

(B) Granted parole into the United States after September 30, 2023, and is:

(I) The spouse or child of a person described in (b) (xiii) (A) of this subsection; or

(II) The parent, legal guardian, or primary caregiver of a person described in (b) (xiii) (A) of this subsection who is determined to be an unaccompanied child under section 462 (g) (2) of the Homeland Security Act of 2002 or section 412 (d) (2) (B) of the Immigration and Nationality Act.

(xiv) A person who has been certified or approved as a victim of trafficking by the federal office of refugee resettlement, or who is:

(A) The spouse or child of a trafficking victim of any age; or

(B) The parent or minor sibling of a trafficking victim who is younger than 21 years of age.

(xv) A person from the Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands living in the United States in accordance with the Compacts of Free Association.

(c) **U.S. citizen** means someone who is a United States citizen under federal law.

(d) **U.S. national** means someone who is a United States national under federal law.

(e) **Undocumented person** means someone who is not lawfully present in the U.S.

(f) **Qualifying American Indian born abroad** means someone who:

(i) Was born in Canada and has at least 50 percent American Indian blood, regardless of tribal membership; or

(ii) Was born outside of the United States and is a member of a federally recognized tribe or an Alaska Native enrolled by the Secretary of the Interior under the Alaska Native Claims Settlement Act.

(2) **Eligibility.**

(a) A U.S. citizen, U.S. national or qualifying American Indian born abroad may be eligible for:

(i) Apple health for adults;

(ii) Apple health for kids;

(iii) Apple health for pregnant women; or

(iv) Classic medicaid.

(b) A qualified alien who meets or is exempt from the five-year bar may be eligible for:

(i) Apple health for adults;

(ii) Apple health for kids;

(iii) Apple health for pregnant women; or

(iv) Classic medicaid.

(c) A qualified alien who neither meets nor is exempt from the five-year bar may be eligible for:

(i) Alien medical programs;

(ii) Apple health for kids;

(iii) Apple health for pregnant women; or

(iv) Medical care services.

(d) A nonqualified alien may be eligible for:

(i) Alien medical programs;

(ii) Apple health for kids;

(iii) Apple health for pregnant women; or

(iv) Medical care services.

(e) An undocumented person may be eligible for:

(i) Alien medical programs;

(ii) State-only funded apple health for kids; or

(iii) State-only funded apple health for pregnant women.

(3) **The five-year bar.**

(a) A qualified alien meets the five-year bar if he or she:

- (i) Continuously resided in the U.S. for five years or more from the date he or she became a qualified alien; or
- (ii) Entered the U.S. before August 22, 1996, and:
 - (A) Became a qualified alien before August 22, 1996; or
 - (B) Became a qualified alien on or after August 22, 1996, and has continuously resided in the U.S. between the date of entry into the U.S. and the date he or she became a qualified alien.
- (b) A qualified alien is exempt from the five-year bar if he or she is:
 - (i) A qualified alien as defined in subsection (1)(b)(vi) through (xv) of this section;
 - (ii) An LPR, parolee, or abused person, who is also an armed services member or veteran, or a family member of an armed services member or veteran, as described below:
 - (A) An active-duty member of the U.S. military, other than active-duty for training;
 - (B) An honorably discharged U.S. veteran;
 - (C) A veteran of the military forces of the Philippines who served before July 1, 1946, as described in Title 38 U.S.C. Section 107; or
 - (D) The spouse, unremarried widow or widower, or unmarried dependent child of an honorably discharged U.S. veteran or active-duty member of the U.S. military.

OTS-4706.1

AMENDATORY SECTION (Amending WSR 22-20-074, filed 9/30/22, effective 10/31/22)

- WAC 182-507-0135 Immigration status requirement for refugee medical assistance (RMA).** (1) An individual is eligible for refugee medical assistance (RMA) if the individual provides documentation issued by the United States Citizenship and Immigration Services (USCIS) to show that the individual is:
- (a) Admitted as a refugee under section 207 of the Immigration and Nationalities Act (INA);
 - (b) Paroled into the United States as a refugee or asylee under section 212 (d)(5) of the INA;
 - (c) Granted conditional entry under section 203 (a)(7) of the INA;
 - (d) Granted asylum under section 208 of the INA;
 - (e) Admitted as an Amerasian immigrant from Vietnam through the orderly departure program, under section 584 of the Foreign Operations Appropriations Act, incorporated in the FY88 continuing resolution P.L. 100-212;
 - (f) A Cuban-Haitian entrant who was admitted as a public interest parolee under section 212 (d)(5) of the INA;
 - (g) Certified as a victim of human trafficking by the federal Office of Refugee Resettlement (ORR);
 - (h) An eligible family member of a victim of human trafficking certified by ORR who has a T-2, T-3, T-4, or T-5 visa; ((e))
 - (i) Admitted as special immigrant from Iraq or Afghanistan under one of the following:

- (i) Special immigrant status under section 101 (a) (27) of the INA;
- (ii) Special immigrant conditional permanent resident; or
- (iii) Parole under section 602 (b) (1) of the Afghan Allies Protection Act of 2009 or section 1059(a) of the National Defense Authorization Act of 2006(~~(-)~~);
- (j) An Afghan granted humanitarian parole between July 31, 2021, and September 30, (~~2022~~) 2023, their spouse or child, or a parent or guardian of an unaccompanied minor who is granted parole after September 30, 2022, under section 2502 of the Extending Government Funding and Delivering Emergency Assistance Act of 2021; or
- (k) A citizen or national of Ukraine (or a person who last habitually resided in Ukraine) who, under section 401 of the Additional Ukraine Supplemental Appropriations Act, 2022 (AUSAA), was:
- (i) Granted parole into the United States between February 24, 2022, and September 30, 2023; or
- (ii) Granted parole into the United States after September 30, 2023, and is:
- (A) The spouse or child of a person described in (k) (i) of this subsection; or
- (B) The parent, legal guardian, or primary caregiver of a person described in (k) (i) of this subsection who is determined to be an unaccompanied child under section 462 (g) (2) of the Homeland Security Act of 2002 or section 412 (d) (2) (B) of the Immigration and Nationality Act.
- (2) A permanent resident alien meets the immigration status requirements for RCA and RMA if the individual was previously in one of the statuses described in subsection (1) of this section.

WSR 23-22-023
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-235—Filed October 20, 2023, 12:08 p.m., effective October 23, 2023]

Effective Date of Rule: October 23, 2023.

Purpose: The purpose of this emergency rule is to temporarily open fishing seasons for the Skykomish River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000W; and amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to open fishing seasons in the Skykomish River.

As the end of the Chinook spawn timing approaches, enough Chinook encounters remain to allow for a limited salmon fishery, targeting coho, in this area.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 20, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000Y Freshwater exceptions to statewide rules—Puget Sound. Effective immediately, until further notice, provisions of WAC 220-312-040 regarding recreational fishing seasons for the Snohomish River system shall be modified as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

- (1) Effective immediately, until further notice, the following waters are closed to fishing for or possessing food fish or game fish:
- (a) **Cherry Creek**, from mouth upstream
 - (b) **Raging River**, from mouth upstream

- (c) **Skykomish River, North Fork**, from mouth upstream
- (d) **Skykomish River, South Fork**, from mouth upstream
- (e) **Snoqualmie River**, from mouth to Snoqualmie Falls
- (f) **Sultan River**, from mouth upstream
- (g) **Tolt River**, from mouth to confluence of North and South forks
- (2) **Skykomish River**, from mouth to confluence of North and South

forks:

- (a) Effective October 23 through October 31, 2023: Salmon: Daily limit 2. Release Chinook and chum. Barbless hooks required.
- (b) Effective November 1, until further notice: Closed to fishing for or possessing food fish or game fish.

(3) **Snohomish River**: From the mouth to the confluence of Skykomish and Snoqualmie rivers:

Effective immediately through October 31, 2023: Salmon: Daily limit 4 including no more than 2 coho. Release Chinook and chum. Use of bait is allowed. Single point barbless hooks required.

(4) **Wallace River**:

(a) From mouth (farthest downstream RR bridge) to 363rd Ave. SE/Reece Rd. (Dike Rd.):

Effective immediately, through October 31, 2023: Salmon daily limit is 4. Release all salmon other than coho and pinks.

(b) From 363rd Ave. SE/Reece Rd. (Dike Rd.) to 200' upstream of water intake of salmon hatchery:

Effective immediately, through November 30, 2023: Salmon daily limit is 4. Release all salmon other than coho and pinks.

REPEALER

The following section of Washington Administrative Code is repealed, effective October 23, 2023:

WAC 220-312-04000W Freshwater exceptions to statewide rules—Puget Sound. (23-230)

WSR 23-22-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-234—Filed October 20, 2023, 3:03 p.m., effective October 23, 2023]

Effective Date of Rule: October 23, 2023.

Purpose: The purpose of this emergency rule is to increase the adult hatchery coho portion of the salmon daily limit in Satsop River.

Citation of Rules Affected by this Order: Amending WAC 220-312-020.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is needed to increase the adult hatchery coho portion of the salmon daily limit in the Satsop River.

Broodstock collection at the Bingham Creek hatchery has exceeded needs for production goals. To date, over 10,000 coho have entered the Bingham Creek hatchery.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 20, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000E Freshwater exceptions to statewide rules—Coast. Effective October 23 through December 31, 2023, the following provisions of WAC 220-312-020, regarding recreational salmon seasons for the Satsop River shall be modified as described below. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Satsop River and East Fork (Grays Harbor Co.):

(a) From mouth to bridge at Schafer State Park:

(i) Effective October 23 through November 30, 2023: Salmon: Daily limit 6. Up to 3 adults including no more than 2 salmon other than hatchery coho may be retained. Release adult Chinook.

(ii) Effective December 1 through December 31, 2023: Salmon: Daily limit 6. Up to 2 adults including no more than 1 salmon other than hatchery coho may be retained. Release Chinook.

(b) From 400 feet below Bingham Creek Hatchery dam to the dam:

(i) Effective October 23 through November 30, 2023: Salmon: Daily limit 6. Up to 3 adults including no more than 2 salmon other than hatchery coho may be retained. Release adult Chinook.

(ii) Effective December 1 through December 31, 2023: Salmon: Daily limit 6. Up to 2 adults including no more than 1 salmon other than hatchery coho may be retained. Release Chinook.

WSR 23-22-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-236—Filed October 20, 2023, 3:11 p.m., effective November 1, 2023]

Effective Date of Rule: November 1, 2023.

Purpose: The purpose of this emergency rule is to increase the adult coho portion of the salmon daily limit in the Hanford Reach area of the Columbia River.

Citation of Rules Affected by this Order: Amending WAC 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary to increase the adult coho portion of the salmon daily limit in the Hanford Reach area. In-season observations indicate coho returns to Ringold Hatchery are sufficient to allow for an increase in the adult coho daily limit.

There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: October 20, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000Z Freshwater exceptions to statewide rules—Columbia River. Effective November 1 through December 31, 2023, the provisions of WAC 220-312-060 regarding recreational salmon seasons from I-182 Bridge to the Old Hanford townsite powerline crossing, shall be modified during the dates listed and as described below. All year-round Closed Waters areas remain in effect. Other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

From I-182 Bridge to the Old Hanford townsite powerline crossing:

Salmon: November 1 through December 31, 2023: Daily limit 6. Up to 2 adults including no more than 1 adult Chinook may be retained. Release all salmon other than Chinook and coho.

WSR 23-22-027
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-237—Filed October 20, 2023, 3:16 p.m., effective October 22, 2023]

Effective Date of Rule: October 22, 2023.

Purpose: The purpose of this emergency rule is to close scheduled commercial gillnet openings in Areas 10 and 11.

Citation of Rules Affected by this Order: Amending WAC 220-354-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to close gillnet openings in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 which were scheduled as a result of the 2023 North of Falcon seasons setting process. The latest in-season runsize estimate for South Sound chum salmon based on test fishing is insufficient to support additional openings until additional test fishing data are collected and runsize is reassessed. Future openings will be based on weekly test fisheries and are likely to be limited in participation. These openings will be enacted by emergency rule and will be announced weekly. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 20, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-16000N Puget Sound salmon—Gillnet—Open periods.

Effective from October 22 through November 17, 2023, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be modified as described below. Future opening for areas 10 and 11 will be made by emergency rule, based on weekly test fishing

results. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
10, 11	Closed	NA	10/22, 10/24, 10/29, 10/31, 11/5, 11/17

WSR 23-22-049

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed October 25, 2023, 8:21 a.m., effective October 25, 2023, 8:21 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (agency) is amending rules to provide continuous enrollment in medicaid through age five for children with household income below 215 percent of the federal poverty level at the time of application.

Citation of Rules Affected by this Order: Amending WAC 182-504-0015, 182-504-0035, and 182-505-0210.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The legislature directed the agency to pursue a 1115 medicaid waiver to extend continuous eligibility for Washington apple health covered children ages zero through five (section 211(71), chapter 334, Laws of 2021 (ESSB 5092)). The agency received federal government approval effective April 14, 2023, of a 1115 medicaid waiver application to provide the continuous eligibility described in the purpose section. This emergency filing is necessary to ensure eligible children ages zero to six do not lose their coverage due to the eligibility redetermination process related to the unwinding of the public health emergency. Since the first emergency filing under WSR 23-14-090, the agency filed proposed rules under WSR 23-20-051 and will hold a virtual public hearing on November 7, 2023.

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

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

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

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

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

Date Adopted: October 25, 2023.

Wendy Barcus
Rules Coordinator

OTS-4720.1

AMENDATORY SECTION (Amending WSR 22-21-072, filed 10/13/22, effective 11/13/22)

WAC 182-504-0015 Washington apple health—Certification periods for categorically needy programs. (1) A certification period is the period of time we determine that you are eligible for a categorically

needy (CN) Washington apple health program. Unless otherwise stated in this section, the certification period begins on the first day of the month of application and continues through the end of the last month of the certification period.

(2) For ~~((a))~~ newborn ~~((eligible for apple health))~~ coverage, the certification period begins on the child's date of birth and continues through the end of the month of the child's first birthday.

(3) If you are eligible for apple health based on pregnancy, the certification period continues through the last day of the month the pregnancy ends. After-pregnancy coverage begins the first day of the month, following the end of the pregnancy, and ends the last day of the 12th month from the time after-pregnancy coverage began.

(4) If you are newly eligible for apple health coverage and had a pregnancy end within the last 12 months, your certification period for after-pregnancy coverage:

(a) Begins the first day of the month you are eligible; and

(b) Ends the last day of the 12th month following the end of your pregnancy.

(5) If you are eligible for the refugee program, the certification period ends at the end of the 12th month following your date of entry to the United States.

(6) If you are a child under age six receiving apple health for kids without a premium, your certification period ends the month of your sixth birthday.

(7) If you are eligible for newborn coverage, the certification period continues through the last day of the month of your first birthday. Apple health for kids coverage begins the first day of the month after your newborn coverage ends and ends the last day of the month of your sixth birthday.

(8) For all other CN coverage, the certification period is 12 months.

~~((7))~~ (9) If you are a child, eligibility is continuous throughout the certification period regardless of a change in circumstances, unless a required premium (described in WAC 182-505-0225) is not paid for three consecutive months, or you:

(a) Turn age 19;

(b) Move out-of-state; or

(c) Die.

~~((8))~~ (10) When you turn 19, the certification period ends after the redetermination process described in WAC 182-504-0125 is completed, even if the 12-month period is not over, unless:

(a) You are receiving inpatient services (described in WAC 182-514-0230) on the last day of the month you turn 19;

(b) The inpatient stay continues into the following month or months; and

(c) You remain eligible except for turning age 19.

~~((9))~~ (11) A retroactive certification period is described in WAC 182-504-0005.

~~((10))~~ (12) Coverage under premium-based programs included in apple health for kids as described in chapter 182-505 WAC begins no sooner than the month after creditable coverage ends.

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-504-0035 Washington apple health—Renewals. (1) For all Washington apple health (WAH) programs, the following applies:

(a) You are required to complete a renewal of eligibility at least every (~~twelve~~) 12 months with the following exceptions:

(i) If you are eligible for WAH medically needy with spenddown, then you must complete a new application at the end of each three- or six-month base period;

(ii) If you are eligible for WAH alien emergency medical, then you are certified for a specific period of time to cover emergency in-patient hospitalization costs only (see WAC 182-507-0115(8)); (~~or~~)

(iii) If you are eligible for WAH refugee coverage, you must complete a renewal of eligibility after eight months; or

(iv) If you are a child on apple health for kids without premiums, your first renewal is due the month of your sixth birthday.

(b) You may complete renewals online, by phone, or by paper application that you mail or fax to us (the agency or its designee).

(c) If your WAH is renewed, we decide the certification period according to WAC 182-504-0015.

(d) We review all eligibility factors subject to change during the renewal process.

(e) We redetermine eligibility as described in WAC 182-504-0125 and send you written notice as described in WAC 182-518-0005 before WAH is terminated.

(f) If you need help meeting the requirements of this section, we provide equal access services as described in WAC 182-503-0120.

(2) For programs based on modified adjusted gross income (MAGI) as described in WAC 182-503-0510:

(a) Sixty days prior to the end of the certification period:

(i) When information from electronic sources shows income is reasonably compatible (as defined in WAC 182-500-0095), we administratively renew your coverage (as defined in WAC 182-500-0010) for a new certification period and send you a notice of renewal with the information used. You are required to inform us if any of the information we used is wrong.

(ii) If we are unable to complete an administrative renewal (as defined in WAC 182-500-0010), you must give us a signed renewal in order for us to decide if you will continue to get WAH coverage beyond the current certification period.

(iii) We follow the requirements described in WAC 182-518-0015 to request any additional information needed to complete the renewal process or to terminate coverage for failure to renew.

(b) If your WAH coverage is terminated because you did not renew, you have (~~ninety~~) 90 days from the termination date to give us a completed renewal. If we decide you are still eligible to get WAH coverage, we will restore your WAH without a gap in coverage.

(3) For non-MAGI based programs (as described in WAC 182-503-0510):

(a) Forty-five days prior to the end of the certification period, we send notice with a renewal form to be completed, signed, and returned by the end of the certification period.

(b) We follow the requirements in WAC 182-518-0015 to request any additional information needed to complete the renewal process or to terminate coverage for failure to renew.

(c) If you are terminated for failure to renew, you have (~~thirty~~) 30 days from the termination date to submit a completed renewal. If still eligible, we will restore your WAH without a gap in coverage.

(4) If we determine that you are not eligible for renewal of your WAH coverage, we:

(a) Consider your eligibility for all other WAH programs before ending your WAH coverage; and

(b) Coordinate with the health benefit exchange any request for information that is necessary to determine your eligibility for:

(i) Other WAH programs; and

(ii) With respect to qualified health plans, health insurance premium tax credits (as defined in WAC 182-500-0045) and cost-sharing reductions (as defined in WAC 182-500-0020).

(5) We reconsider our decision that you are not eligible for WAH coverage without a new application from you when:

(a) We receive the information that we need to decide if you are eligible within (~~thirty~~) 30 days of the date on the termination notice; or

(b) You request a hearing within (~~ninety~~) 90 days of the date on the renewal denial letter and an administrative law judge (ALJ) or HCA review judge decides our decision was wrong (per chapter 182-526 WAC).

(6) If you disagree with our decision, you can ask for a hearing. If we decided that you are not eligible for renewal because we do not have enough information, the ALJ will consider the information we already have and anymore information you give us. The ALJ does not consider the previous absence of information or failure to respond in determining if you are eligible.

OTS-4721.1

AMENDATORY SECTION (Amending WSR 17-12-018, filed 5/30/17, effective 6/30/17)

WAC 182-505-0210 Eligibility for children. (1) **General eligibility.** For purposes of this section, a child must:

(a) Be a Washington state resident under WAC 182-503-0520 and 182-503-0525;

(b) Provide a Social Security number under WAC 182-503-0515, unless exempt; and

(c) Meet program-specific requirements.

(2) **Deemed eligibility groups.** A child is automatically eligible for coverage without an application if the child meets the program-specific requirements in (a) through (c) of this subsection.

(a) **Newborn coverage.** A child under age one is eligible for categorically needy (CN) coverage if the birth parent was eligible for Washington apple health on the date of delivery:

(i) Including a retroactive eligibility determination; or

(ii) By meeting a medically needy (MN) spenddown liability with expenses incurred by the date of the newborn's birth:

(~~(b)~~) (b) **Washington apple health for supplemental security income (SSI) recipients.** A child who is eligible for SSI is automatically eligible for CN coverage under WAC 182-510-0001.

(c) **Foster care coverage.** A child age (~~(twenty)~~) 20 and younger is eligible for CN coverage under WAC 182-505-0211 when the child is in foster care or receives subsidized adoption services. For children who age out of the foster care program, see WAC 182-505-0211(3).

(3) **MAGI-based eligibility groups.** A child age (~~(eighteen)~~) 18 and younger is eligible for CN coverage based on modified adjusted gross income (MAGI):

(a) At no cost when the child's countable income does not exceed the standard in WAC 182-505-0100 (6)(a);

(b) With payment of a premium when the child's countable income does not exceed the standard in WAC 182-505-0100 (6)(b), and the child meets additional eligibility criteria in WAC 182-505-0215;

(c) Under chapter 182-514 WAC, if the child needs long-term care services because the child resides or is expected to reside in an institution, as defined in WAC 182-500-0050, for (~~(thirty)~~) 30 days or longer. An institutionalized child is eligible for coverage under the medically needy program if income exceeds the CN income standard for a person in an institution (special income level);

(d) Under WAC 182-505-0117, if a child is pregnant;

(e) When the child has household income at or below 215 percent of the federal poverty level at the time of application and is eligible for Washington apple health continuous eligibility for children under age six.

(4) **Non-MAGI-based children's programs.** The agency determines eligibility for the:

(a) Medically needy (MN) program according to WAC 182-510-0001(6) and 182-519-0100. A child age (~~(eighteen)~~) 18 and younger is eligible if the child:

(i) Is not eligible for MAGI-based coverage under subsection (3) of this section;

(ii) Meets citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and

(iii) Meets any spenddown liability required under WAC 182-519-0110.

(b) **SSI-related program.** A child age (~~(eighteen)~~) 18 and younger is eligible for CN or MN SSI-related coverage if the child meets:

(i) SSI-related eligibility under chapter 182-512 WAC;

(ii) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and

(iii) Any MN spenddown liability under WAC 182-519-0110.

(c) **SSI-related long-term care program.**

(i) A child age (~~(eighteen)~~) 18 and younger is eligible for home and community based (HCB) waiver programs under chapter 182-515 WAC if the child meets:

(A) SSI-related eligibility under chapter 182-512 WAC;

(B) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and

(C) Program-specific age and functional requirements under chapters 388-106 and 388-845 WAC.

(ii) A child age (~~(eighteen)~~) 18 and younger who resides or is expected to reside in a medical institution as defined in WAC 182-500-0050 is eligible for institutional medical under chapter 182-513 WAC if the child meets:

(A) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d);

(B) Blindness or disability criteria under WAC 182-512-0050; and

(C) Nursing facility level of care under chapter 388-106 WAC.

(5) **Alien emergency medical program.** A child age (~~(twenty)~~) 20 and younger who does not meet the eligibility requirements for a program described under subsections (2) through (4) of this section is eligible for the alien emergency medical (AEM) program if the child meets:

- (a) The eligibility requirements of WAC 182-507-0110; and
- (b) MN spenddown liability, if any, under WAC 182-519-0110.

(6) **Other provisions.**

(a) A child residing in an institution for mental disease (IMD) as defined in WAC 182-500-0050(1) is not eligible for inpatient hospital services, unless the child is unconditionally discharged from the IMD before receiving the services.

(b) A child incarcerated in a public institution as defined in WAC 182-500-0050(4) is only eligible for inpatient hospital services.

WSR 23-22-070
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-238—Filed October 25, 2023, 1:38 p.m., effective October 27, 2023]

Effective Date of Rule: October 27, 2023.

Purpose: The purpose of this emergency rule is to open recreational razor clam seasons.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000E; and amending WAC 220-330-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 3, 4, and 5 for recreational harvest. Washington department of health has certified clams from these Razor Clam Areas 1, 3, 4, and 5 to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 25, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000E Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 p.m. October 27 through 11:59 p.m. October 31, 2023, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during evening tides on dates and times listed below:

Table with 3 columns: Razor Clam Area, Date, Time. Row 1: Area 1, October 27 through 30, From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	October 27 through 30	From 12:01 p.m. to 11:59 p.m.
Area 4	October 28 and 30	From 12:01 p.m. to 11:59 p.m.
Area 5	October 27, 29 and 31	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

(2) It is unlawful to dig for razor clams at any time in the Long Beach and Copalis Beach Clam sanctuaries defined in WAC 220-320-130.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. November 1, 2023:

WAC 220-330-16000E Razor clams—Areas and seasons.

WSR 23-22-074

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed October 26, 2023, 2:15 p.m., effective October 26, 2023, 2:15 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (agency) is revising this rule in accordance with the settlement agreement in the case of *National Association of Chain Drug Stores, et al., v. Washington State Health Care Authority, et al.* (Case No. 51489-3-II) and for the purpose of ensuring the continuation of federal medicaid funding.

Citation of Rules Affected by this Order: Amending WAC 182-530-7050.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The agency is revising this rule in accordance with the settlement agreement in the case of *National Association of Chain Drug Stores, et al., v. Washington State Health Care Authority, et al.* (Case No. 51489-3-II) and for the purpose of ensuring the continuation of federal medicaid funding. This emergency is necessary while the permanent rule process is being completed.

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

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

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

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

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

Date Adopted: October 26, 2023.

Wendy Barcus
Rules Coordinator

OTS-5053.2

AMENDATORY SECTION (Amending WSR 17-07-001, filed 3/1/17, effective 4/1/17)

WAC 182-530-7050 Reimbursement—Dispensing fee determination.

(1) Subject to the provisions of WAC 182-530-7000 and the exceptions permitted in WAC 182-530-2000, the medicaid agency pays a dispensing fee for each covered, prescribed drug.

(2) The agency does not pay a dispensing fee for:

- (a) Nondrug items, devices, or drug-related supplies; or
- (b) Drugs administered by a health care professional.

(3) The agency periodically examines the sufficiency of pharmacy dispensing fees and may adjust the dispensing fee by considering factors including, but not limited to:

- (a) Legislative appropriations for vendor rates;
- (b) Input from provider and advocacy groups;
- (c) Input from state-employed or contracted actuaries; and
- (d) Dispensing fees paid by other third-party payers including, but not limited to, health care plans and other states' medicaid agencies.

(4) The agency uses a tiered dispensing fee system which pays higher volume pharmacies at a lower fee and lower volume pharmacies at a higher fee.

(5) The agency uses total annual prescription volume (both medicaid and nonmedicaid) reported to the agency to determine each pharmacy's dispensing fee tier. The following tier levels are effective for dates of service on and after July 1, 2023:

(a) A pharmacy which fills (~~more than thirty-five thousand~~) 70,000 or more prescriptions annually is a high-volume pharmacy. The agency considers hospital-based pharmacies that serve both inpatient and outpatient clients as high-volume pharmacies.

(b) A pharmacy which fills between (~~fifteen thousand one and thirty-five thousand~~) 30,000 and 69,999 prescriptions annually is a mid-volume pharmacy.

(c) A pharmacy which fills (~~fifteen thousand or fewer~~) less than 30,000 prescriptions annually is a low-volume pharmacy.

(6) The agency determines a pharmacy's annual total prescription volume as follows:

(a) The agency sends out a prescription volume survey form to pharmacy providers during the first quarter of the calendar year;

(b) Pharmacies return completed prescription volume surveys to the agency each year. Pharmacy providers not responding to the survey by the specified date are assigned to the high volume category;

(c) Pharmacies must include all prescriptions dispensed from the same physical location in the pharmacy's total prescription count;

(d) The agency considers prescriptions dispensed to nursing facility clients as outpatient prescriptions; and

(e) Assignment to a new dispensing fee tier is effective on the first of the month, following the date specified by the agency.

(7) A pharmacy may request a change in dispensing fee tier during the interval between the annual prescription volume surveys. The pharmacy must substantiate such a request with documentation showing that the pharmacy's most recent six-month dispensing data, annualized, would qualify the pharmacy for the new tier. If the agency receives the documentation by the twentieth of the month, assignment to a new dispensing fee tier is effective on the first of the following month.

(8) The agency grants general dispensing fee rate increases only when authorized by the legislature. Amounts authorized for dispensing fee increases may be distributed nonuniformly (e.g., tiered dispensing fee based upon volume).

(9) The agency may pay true unit dose pharmacies at a different rate for unit dose dispensing.

WSR 23-22-078
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-239—Filed October 26, 2023, 4:14 p.m., effective October 26, 2023, 4:14 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to modify commercial purse seine openings in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11, and commercial gillnet openings in Areas 6D and 9A.

Citation of Rules Affected by this Order: Amending WAC 220-354-120 and 220-354-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to close purse seine openings in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 and gillnet openings in Area 6D, which were scheduled as a result of the 2023 North of Falcon seasons setting process. This rule will also require release of chum salmon in the Area 9A gillnet fishery.

The latest in-season runsize estimate for South Sound chum salmon based on test fishing is insufficient to support the commercial openings modified with this rule. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 26, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000F Puget Sound salmon—Purse seine—Open periods. Effective immediately, through November 9, 2023, the following provisions of WAC 220-354-120 regarding commercial purse seine open periods in Puget Sound Salmon Management and Catch Reporting areas 10 and 11

shall be modified as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Area(s)	Date(s)	Open/Closed	Daily open period
10 and 11	10/26, 11/2, 11/3, 11/9	Closed	NA

NEW SECTION

WAC 220-354-16000P Puget Sound salmon—Gillnet—Open periods.

Effective immediately, through November 10, 2023, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting areas 6D and 9A shall be modified as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

(a)

Area(s)	Date(s)	Open/Closed	Daily open period	Minimum mesh size
6D	10/31, 11/1, 11/2, 11/3, 11/6, 11/7, 11/8, 11/9, 11/10	Closed	NA	NA

(b) Effective immediately, through November 4, 2023, it is unlawful to retain chum salmon taken in Area 9A.

WSR 23-22-079

EMERGENCY RULES

HEALTH CARE AUTHORITY

(School Employees Benefits Board)

[Admin #2023-03.01—Filed October 27, 2023, 8:18 a.m., effective October 27, 2023, 8:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (HCA) is creating two new sections, WAC 182-30-5000 School employees benefits board employer groups and 182-30-5010 School board members participation in school employees benefits board health plans, as authorized in SSB 5275, chapter 13, Laws of 2023, 68th legislature, 2023 regular session.

Citation of Rules Affected by this Order: New WAC 182-30-5000 and 182-30-5010.

Statutory Authority for Adoption: SSB 5275, chapter 13, Laws of 2023, 68th legislature, 2023 regular session.

Other Authority: RCW 41.05.021, 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule making is necessary by establishing rules for the school employees benefits board (SEBB) employer groups and the school board members to implement SSB 5275, chapter 13, Laws of 2023, while HCA conducts the permanent rule-making process.

This filing continues the emergency rules under WSR 23-14-095, filed on June 30, 2023. Since the filing of this emergency rule, HCA is continuing to review the SEBB chapters for updates and is preparing for its annual revisions to begin under permanent rule making shortly.

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

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

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

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

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

Date Adopted: October 27, 2023.

Wendy Barcus
Rules Coordinator

OTS-4678.1

NEW SECTION**WAC 182-30-5000 School employees benefits board employer groups.**

(1) The following definitions apply to this section:

(a) "School employee" means an employee of an employee organization representing school employees and an employee of a tribal school as defined in RCW 28A.715.010.

(b) "Employer group" has the same meaning as defined in RCW 41.05.011 (9)(b).

(2) This section applies to all employer group applications received through December 31, 2024.

(3) Employer groups may apply to obtain school employees benefits board (SEBB) insurance coverage through a contract with the authority for SEBB insurance coverage to begin January 1, 2024, if they meet the group application process and requirements in a similar way as described in WAC 182-08-235. All documents and information required with the application must be submitted to the SEBB program.

(4) Employer groups that apply for participation in SEBB insurance coverage as described in subsection (3) of this section will have a one-time opportunity to request inclusion of retired employees who are covered under its retiree health plan at the time of application in a similar way as described in WAC 182-08-237. The retirees included will be enrolled in public employees benefits board (PEBB) retiree insurance coverage.

(5) The authority will review the employer group application based on the documents submitted by the employer group and the employer group evaluation criteria in a similar way as described in WAC 182-08-240.

(6) Employer groups must meet the participation requirements, including requirements for terminating participation in SEBB insurance coverage, in a similar way as described in WAC 182-08-245.

(7) Employer groups that enter into a contractual agreement with the authority on or after May 4, 2023, and whose contractual agreement is subsequently terminated, shall make a one-time payment to the authority for each of the employer group's retired or disabled employees who continue their participation in insurance plans and contracts under RCW 41.05.080 (1)(a)(ii).

(a) For each of the employer group's retired or disabled employees who will be continuing their participation, the authority shall determine the one-time payment by:

(i) Calculating the difference in cost between the rate charged to retired or disabled employees as described in RCW 41.05.080(2); and

(ii) The actuarially determined value of the medical benefits for retired and disabled employees who are not eligible for Parts A and B of medicare; and

(iii) Multiplying that difference by the number of months until the retired or disabled employee would become eligible for medicare.

(b) Employer groups shall not be entitled to any refund of the amount paid to the authority as described in this subsection.

(8) Employer groups may appeal a decision of the authority to deny an employer group application in a similar way as described in WAC 182-16-2060. The appeal must be sent to the SEBB appeals unit.

(9) School employees may appeal a decision made by the employer group in a similar way as described in WAC 182-16-2010(2), 182-16-2030(2), and chapter 182-32 WAC.

(10) All rules in chapters 182-30, 182-31, and 182-32 WAC apply to employer groups and enrollees, except for WAC 182-30-100, 182-30-120, 182-30-130, 182-30-140, 182-31-030, and 182-31-060.

NEW SECTION

WAC 182-30-5010 School board members participation in school employees benefits board health plans. (1) In this section, "school board member" means the board of directors of a school district as governed by chapter 28A.343 RCW or the board of directors of an educational service district as governed by chapter 28A.310 RCW.

(2) Effective January 1, 2024, a school board member may enroll in health plans offered by the school employees benefits board (SEBB) by self-paying the premium and applicable premium surcharges set by the health care authority (HCA). A school board member must enroll in SEBB medical, SEBB dental, and SEBB vision.

(3) A school board member may participate in SEBB health plan coverage for the duration of their elected term as a school board member as long as premiums and applicable premium surcharges continue to be paid as described in WAC 182-30-040 and may renew their participation at the start of each subsequent term as a school board member.

(4) A school board member may elect to enroll in SEBB health plan coverage by submitting the required forms and first premium payments to the SEBB program, and they must be received as follows:

(a) Currently elected or appointed school board members have between November 1, 2023, and February 29, 2024, to submit the required forms to the SEBB program.

(i) If the required forms are received on or before December 31, 2023, SEBB health plan coverage will begin January 1, 2024. The first premium payment and applicable premium surcharges must be received no later than 45 days after January 1, 2024.

(ii) If the required forms are received between January 1, 2024, and February 29, 2024, SEBB health plan coverage will begin the first day of the month following the day the SEBB program receives the required forms. The first premium payment and applicable premium surcharges must be received no later than 45 days after the 60-day election period ends.

(b) Newly elected school board members must submit their required forms no later than 60 days from the beginning of their elected or appointed term. The school board member's SEBB health plan coverage will begin the first day of the month following the day the SEBB program receives the required forms. The first premium payment and applicable premium surcharges must be received no later than 45 days after the 60-day election period ends.

(5) A school board member's account may incur the tobacco use premium surcharge or the spousal premium surcharge in addition to their monthly medical premium, and the subscriber must attest as described in WAC 182-30-050 (1) and (2). A premium surcharge will be applied if the school board member does not attest. If the attestation results in a premium surcharge, it will take effect the same date as SEBB medical begins.

(6) If a school board member is reelected for a new term consecutive from their previous term, the school board member will not be required to make new elections.

(7) A school board member may enroll eligible dependents as described in WAC 182-31-140 and must include the dependent's enrollment information on the required form. If the school board member elects to enroll a dependent in SEBB health plan coverage, the dependent will be enrolled in the same SEBB medical, SEBB dental, and SEBB vision plans as the school board member.

(8) If a school board member is terminated due to no longer paying the premium and applicable premium surcharges as described in WAC 182-30-040 (1)(c) or requests to voluntarily terminate their enrollment in SEBB health plan coverage prior to the end of their elected term, they are no longer eligible under this section to participate in SEBB health plan coverage for the remainder of their elected term. Those who request to voluntarily terminate their SEBB health plan coverage must do so in writing. SEBB health plan coverage will end on the last day of the month in which the SEBB program receives the termination request or on the last day of the month specified in the school board member's termination request, whichever is later. If the termination request is received on the first day of the month, SEBB health plan coverage will end on the last day of the previous month.

(9) A school board member may make enrollment changes on the same terms and conditions as a continuation coverage subscriber as described in WAC 182-30-085, 182-30-090, and 182-31-150.

(10) A school board member must update their address with the SEBB program as described in WAC 182-30-075.

(11) A school board member is limited to one enrollment per individual in SEBB health plan coverage, as described in WAC 182-31-070.

(12) A school board member may appeal a decision made by the SEBB program as described in chapter 182-32 WAC.

(13) The requirements in WAC 182-31-160 about National Medical Support Notice apply.

(14) A school board member may receive the SEBB wellness incentive as described in WAC 182-31-190.

(15) A school board member is not eligible for public employees benefits board retiree insurance coverage.

(16) The eligibility criteria for a school board member in this section replaces the eligibility criteria found in WAC 182-08-235, 182-08-245, 182-12-111, and 182-12-146 effective January 1, 2024.

WSR 23-22-082
EMERGENCY RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed October 27, 2023, 12:52 p.m., effective October 27, 2023, 12:52 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of children, youth, and families is amending this rule to increase the nonstandard hourly bonus to \$135.

Citation of Rules Affected by this Order: Amending WAC 110-15-0249.

Statutory Authority for Adoption: RCW 74.04.050.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These rules are needed to comply with chapter 199, Laws of 2021. This is the second emergency filing for these rules. They have been in effect under emergency status since July 1, 2023, under WSR 23-14-098.

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

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

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

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

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

Date Adopted: October 27, 2023.

Brenda Villarreal
Rules Coordinator

OTS-4719.1

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

WAC 110-15-0249 Nonstandard hours bonus. (1) Consumers' providers may receive a nonstandard hours bonus (NSHB) payments per child per month for care provided if:

- (a) The providers are licensed or certified;
- (b) They provide at least 30 hours of nonstandard hours care during one month; and
- (c) The total cost of the state's NSHB payments do not exceed the amount appropriated for this purpose by the legislature for the current fiscal year.

(2) Nonstandard hours are defined as:

- (a) Before 6 a.m. or after 6 p.m.;
- (b) Any hours on Saturdays and Sundays; and

(c) Any hours on legal holidays, as defined in RCW 1.16.050.

(3) NSHB amounts are:

(a) (~~Ninety~~) One hundred thirty-five dollars for family homes;

and

(b) (~~Seventy-five~~) One hundred thirty-five dollars for centers.

WSR 23-22-083
EMERGENCY RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed October 27, 2023, 12:55 p.m., effective October 27, 2023, 12:55 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of children, youth, and families is amending these rules to increase child care center and licensed family home provider rates to the 85th percentile of the current market and increasing family friends and neighbor rates to \$3.85, effective July 1, 2023, and delayed implementation for another increase to \$4 on July 1, 2024.

Citation of Rules Affected by this Order: Amending WAC 110-15-0200, 110-15-0205, and 110-15-0240.

Statutory Authority for Adoption: RCW 74.04.050.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These rules are needed to comply with E2SHB 5237 and chapter 199, Laws of 2021. This is the second emergency filing for these rules. They have been in effect under emergency status since July 1, 2023, under WSR 23-14-100.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

Date Adopted: October 27, 2023.

Brenda Villarreal
Rules Coordinator

OTS-4718.2

AMENDATORY SECTION (Amending WSR 22-16-081, filed 8/1/22, effective 9/1/22)

WAC 110-15-0200 Daily child care rates—Licensed or certified child care centers and DCYF contracted seasonal day camps. (1) **Base rate.** Effective July 1, ((2022)) 2023, the child care subsidy rates paid to licensed or certified child care centers or DCYF contracted seasonal day camps are:

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	(\$48.02) \$62.05	(\$43.50) \$56.14	(\$39.67) \$53.18	(\$39.15) \$53.36
	Half-Day	(\$24.01) \$31.03	(\$21.75) \$28.07	(\$19.84) \$26.59	(\$19.58) \$26.68
Spokane County	Full-Day	\$68.54	(\$55.37) \$56.59	\$52.14	(\$40.59) \$49.00
	Half-Day	\$34.27	(\$27.69) \$28.30	\$26.07	(\$20.30) \$24.50
Region 2	Full-Day	(\$55.68) \$59.09	(\$42.44) \$49.09	(\$42.34) \$44.77	(\$31.74) \$32.73
	Half-Day	(\$27.84) \$29.55	(\$21.22) \$24.55	(\$21.17) \$22.39	(\$15.87) \$16.37
Region 3	Full-Day	\$88.58	(\$79.36) \$80.36	(\$66.89) \$72.50	(\$50.62) \$65.45
	Half-Day	\$44.29	(\$39.68) \$40.18	(\$33.45) \$36.25	(\$25.31) \$32.73
Region 4	Full-Day	(\$111.05) \$113.64	(\$92.28) \$101.59	(\$83.31) \$85.68	(\$52.20) \$90.64
	Half-Day	(\$55.53) \$56.82	(\$46.14) \$50.80	(\$41.66) \$42.84	(\$26.10) \$45.32
Region 5	Full-Day	\$72.56	(\$62.80) \$64.00	\$55.77	(\$40.60) \$54.18
	Half-Day	\$36.28	(\$31.40) \$32.00	\$27.89	(\$20.30) \$27.09
Region 6	Full-Day	(\$66.12) \$77.00	(\$59.16) \$67.50	(\$54.52) \$57.73	(\$41.66) \$50.23
	Half-Day	(\$33.06) \$38.50	(\$29.58) \$33.75	(\$27.26) \$28.87	(\$20.83) \$25.12

(a) Centers in Clark County are paid Region 3 rates.

(b) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates.

(2) WAC 110-300-0005 and 110-300-0356 allow providers to care for children from birth up to and including the end of their eligibility period after their 13th birthday.

(3) Providers must obtain child-specific and time-limited exceptions from DCYF to provide care for children outside the age listed on the center's license.

(4) If providers are granted an exception to care for a child who is 13 years old or older at application or reapplication:

(a) The payment rate is the same as subsection (1) of this section, and the five through 12 year age range column is used for comparison; and

(b) The children must meet the special needs requirement described in WAC 110-15-0220.

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

WAC 110-15-0205 Daily child care rates—Licensed or certified family home child care providers. (1) **Monthly unit.** DCYF authorizes care as monthly units as described in WAC 110-15-0190, the calculation of which is based on the full-day, partial-day, and half-day rates in subsection (2) of this section.

(2) Effective July 1, (~~2021~~) 2023, DCYF calculates licensed or certified family home providers' monthly units based on the following child care subsidy rates:

	Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
((Region Full-Day	\$40.00	\$40.00	\$35.00	\$32.00	\$30.00
† Half-Day	\$20.00	\$20.00	\$17.50	\$16.00	\$15.00
Partial-Day	\$30.00	\$30.00	\$26.25	\$24.00	\$22.50

	Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Spokane County Full-Day	\$42.00	\$42.00	\$40.00	\$37.00	\$36.00
Spokane County Half-Day	\$21.00	\$21.00	\$20.00	\$18.50	\$18.00
Spokane County Partial-Day	\$31.50	\$31.50	\$30.00	\$27.75	\$27.00
Region 2 Full-Day	\$45.00	\$45.00	\$37.50	\$35.00	\$32.00
Region 2 Half-Day	\$22.50	\$22.50	\$18.75	\$17.50	\$16.00
Region 2 Partial-Day	\$33.75	\$33.75	\$28.13	\$26.25	\$24.00
Region 3 Full-Day	\$55.00	\$55.00	\$48.86	\$48.00	\$40.00
Region 3 Half-Day	\$27.50	\$27.50	\$24.43	\$24.00	\$20.00
Region 3 Partial-Day	\$41.25	\$41.25	\$36.65	\$36.00	\$30.00
Region 4 Full-Day	\$68.18	\$68.18	\$63.64	\$59.09	\$40.00
Region 4 Half-Day	\$34.09	\$34.09	\$31.82	\$29.55	\$20.00
Region 4 Partial-Day	\$51.14	\$51.14	\$47.73	\$44.32	\$30.00
Region 5 Full-Day	\$48.86	\$48.86	\$42.00	\$39.09	\$35.71
Region 5 Half-Day	\$24.43	\$24.43	\$21.00	\$19.55	\$17.86
Region 5 Partial-Day	\$36.65	\$36.65	\$31.50	\$29.32	\$26.78
Region 6 Full-Day	\$45.00	\$45.00	\$43.18	\$38.00	\$32.50
Region 6 Half-Day	\$22.50	\$22.50	\$21.59	\$19.00	\$16.25
Region 6 Partial-Day	\$33.75	\$33.75	\$32.39	\$28.50	(\$24.38))
Region 1 Full-Day	\$49.23	\$49.23	\$47.09	\$40.00	\$36.59
Region 1 Half-Day	\$24.62	\$24.62	\$23.55	\$20.00	\$18.30
Region 1 Partial-Day	\$36.92	\$36.92	\$35.32	\$30.00	\$27.44
Spokane County Full-Day	\$48.00	\$48.00	\$48.00	\$45.00	\$45.00
Spokane County Half-Day	\$24.00	\$24.00	\$24.00	\$22.50	\$22.50
Spokane County Partial-Day	\$36.00	\$36.00	\$36.00	\$33.75	\$33.75
Region 2 Full-Day	\$66.00	\$66.00	\$59.09	\$48.00	\$40.00
Region 2 Half-Day	\$33.00	\$33.00	\$29.55	\$24.00	\$20.00
Region 2 Partial-Day	\$49.50	\$49.50	\$44.32	\$36.00	\$30.00
Region 3 Full-Day	\$65.00	\$65.00	\$59.09	\$54.18	\$49.23
Region 3 Half-Day	\$32.50	\$32.50	\$29.55	\$27.09	\$24.62
Region 3 Partial-Day	\$48.75	\$48.75	\$44.32	\$40.64	\$36.92
Region 4 Full-Day	\$81.82	\$81.82	\$75.00	\$68.95	\$60.00
Region 4 Half-Day	\$40.91	\$40.91	\$37.50	\$34.48	\$30.00
Region 4 Partial-Day	\$61.37	\$61.37	\$56.25	\$51.71	\$45.00
Region 5 Full-Day	\$59.09	\$59.09	\$59.09	\$49.23	\$44.32
Region 5 Half-Day	\$29.55	\$29.55	\$29.55	\$24.62	\$22.16
Region 5 Partial-Day	\$44.32	\$44.32	\$44.32	\$36.92	\$33.24
Region 6 Full-Day	\$59.09	\$59.09	\$55.00	\$53.00	\$45.00
Region 6 Half-Day	\$29.55	\$29.55	\$27.50	\$26.50	\$22.50
Region 6 Partial-Day	\$44.32	\$44.32	\$41.25	\$39.75	\$33.75

(3) The monthly unit for family home providers in all regions and for all ages will include a partial-day rate that is 75 percent of the full-day rate when:

(a) Providers provide child care services for a child during a morning session and an afternoon session. A morning session begins at any time after 12:00 a.m. and ends before 12:00 p.m. An afternoon session begins at any time after 12:00 p.m. and ends before 12:00 a.m.;

(b) The child is absent from care in order to attend school or preschool; and

(c) Family home providers are not entitled to payment at the full-day rate.

(4) Monthly units for school age children will be adjusted for the months of July and August based on the consumers' approved activities and the children's schedules for care during the summer.

(5) School age children will be authorized for 22 full days in July and August when:

- (a) They are authorized for a full-time, full-time partial-day, monthly unit; or
- (b) They are authorized for a part-time, part-time partial-day, monthly unit;
- (c) Are scheduled for child care with a single provider at least 110 hours per month; and
- (d) The consumer participates in an approved activity at least 110 hours per month.
- (6) Monthly units will be prorated for partial months of authorization.
- (7) The monthly unit amount is averaged over all months of authorized care. Supplemental payments will not be made for calendar months with more than the average number of care days.
- (8) Supplemental authorization for payment may be requested by consumers for unexpected hours of care needed for allowable activities or changes in their schedules.
- (9) WAC 110-300-0005 and 110-300-0355 allow providers to care for children from birth up to and including the end of their eligibility period after their 13th birthday.
- (10) Providers must obtain a child-specific and time-limited exception from DCYF to provide care for children outside the age listed on their licenses.
- (11) For providers who are granted an exception to care for a child who is 13 years of age or older at application or reapplication:
- (a) The payment rate is the same as subsection (1) of this section and the five through 12 year age range column is used for comparison; and
- (b) The child must meet the special needs requirement as described in WAC 110-15-0220.
- (12) DCYF pays family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (13) of this section).
- (13) DCYF cannot pay family home child care providers to provide care for children in their care if the provider is:
- (a) The child's biological, adoptive or step-parent;
- (b) The child's guardian or the guardian's spouse or live-in partner; or
- (c) Another adult acting in loco parentis or that adult's spouse or live-in partner.

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

- WAC 110-15-0240 Child care subsidy rates—In-home/relative providers.** (1) **Base rate.** When consumers employ in-home/relative providers, DCYF pays (~~(\$2.65)~~) \$3.85 per hour per child. Beginning July 1, (~~(2022)~~) 2024, the maximum child care subsidy rate is (~~(\$3.00)~~) \$4.00 per hour per child.
- (2) DCYF may pay above the maximum hourly rate for children who have special needs pursuant to WAC 110-15-0235.
- (3) DCYF makes the WCCC payment directly to consumers' eligible providers.
- (4) When applicable, DCYF pays the employer's share of the following:

- (a) Social Security and medicare taxes (FICA) up to the wage limit;
- (b) Federal Unemployment Taxes (FUTA); and
- (c) State unemployment taxes (SUTA).
- (5) For in-home/relative providers who receive less than the wage base limit per family in a calendar year, DCYF refunds all withheld taxes to them.

WSR 23-22-084
EMERGENCY RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed October 27, 2023, 1:00 p.m., effective October 27, 2023, 1:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of children, youth, and families is amending these rules to extend the homeless grace period and to open the care up to more providers.

Citation of Rules Affected by this Order: Amending WAC 110-15-0023 and 110-15-0024.

Statutory Authority for Adoption: Chapters 43.215 and 43.216 RCW.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These changes are needed to comply with the Fair Start for Kids Act legislation of 2021, chapter 199, Laws of 2021. This is the second emergency filing for these rules. They have been in effect under emergency status since July 1, 2023, under WSR 23-14-099.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: October 27, 2023.

Brenda Villarreal
Rules Coordinator

OTS-4717.1

AMENDATORY SECTION (Amending WSR 20-15-161, filed 7/22/20, effective 8/22/20)

WAC 110-15-0023 Homeless grace period (HGP). (1) A homeless grace period (HGP) is established as described in this section.

(2) ~~((DCYF may grant a consumer experiencing homelessness a twelve-month grace period to submit the documentation described in this subsection. The children of the consumer experiencing homelessness may receive WCCC services during the HGP. Within twelve months of the child being authorized in the WCCC program, the consumer must submit to DCYF:~~

~~(i) Documentation verifying participation in an approved activity as described in WAC 110-15-0040, 110-15-0045, or 110-15-0050;~~

- ~~(ii) Third-party verification of employment; and~~
~~(iii) Verification that any outstanding copayment owed by the consumer has been paid or written verification of a payment plan agreed to by the child care provider who is owed the outstanding copayment.~~
- ~~(3) A consumer is eligible for HGP if the consumer:~~
- ~~(a) Is experiencing, and DCYF verifies, homelessness at the time of the consumer's application for benefits;~~
~~(b) Has not been approved for HGP within the previous twelve months; and~~
~~(c) Except for the requirements described in subsection (1) of this section, meets all eligibility requirements described in this chapter.~~
- ~~(4)) A family experiencing homelessness at the time the consumer applies for child care subsidy is eligible for HGP under this section when:~~
- ~~(a) They meet all eligibility requirements described in WAC 110-15-0005, except for WAC 110-15-0005 (1)(d) and (f); and~~
~~(b) Their household income is under 85 percent of the state median income (SMI).~~
- ~~(3) Consumers approved by DCYF for HGP are eligible to receive:~~
- ~~(a) A ((twelve)) 12-month certification period;~~
~~(b) A copayment waiver; and~~
~~(c) An authorization for full-time care as described in WAC 110-15-0190.~~
- ~~((5) Authorizations for HGP eligible consumers may only be authorized for licensed care, certified care, or DCYF contracted provider care.~~
- ~~(6) Consumers authorized care under HGP must provide required verification when reapplying at the end of their certification as described in WAC 110-15-0109.~~
- ~~(7)) (4) Consumers approved under HGP are not subject to overpayment unless the consumer obtained benefits by failing to report accurate information that resulted in an error in determining the consumer's eligibility for HGP.~~

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

- WAC 110-15-0024 Categorical eligibility for families receiving child protective, child welfare, or family assessment response services.** (1) Families with children who have received child protective services as defined and used by chapters 26.44 and 74.13 RCW, child welfare services as defined and used by chapter 74.13 RCW, or services through a family assessment response, as defined and used by chapter 26.44 RCW in the six months previous to application or reapplication for working connections child care (WCCC) benefits are eligible for WCCC benefits for a ((twelve)) 12-month period if, in addition the:
- (a) Consumer is a Washington state resident;
 (b) Family has been referred for child care as part of the family's case management as defined by RCW 74.13.020; and
 (c) Child or children are residing with a biological parent or guardian.
- (2) Families eligible for WCCC under this section will:
- (a) Have no copayment;

(b) Be authorized for full-time child care regardless of participation in an approved activity; and

(c) Be eligible to have benefits paid only to a (~~licensed, certified, or contracted child care~~) provider that meets the requirements in WAC 110-15-0125.

WSR 23-22-100
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-241—Filed October 30, 2023, 5:04 p.m., effective October 30, 2023, 5:04 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to allow the Canadian-flagged purse seine vessel F/V Nita Maria to conduct a federally authorized test fishery immediately through November 17, 2023.

Citation of Rules Affected by this Order: Amending WAC 220-354-120.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to allow the Canadian-flagged purse seine vessel, F/V Nita Maria to conduct a test fishery in Washington waters. The test fishery will take place in both Canadian and United States waters and has been approved by Pacific Salmon Commission, as well as authorized and permitted by the National Oceanic and Atmospheric Administration. F/V Nita Maria will be allowed to take no more than 1,000 chum salmon over the duration of the test fishing period and must release all other fish. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 30, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000G Puget Sound salmon—Purse seine—Open periods. Effective immediately, through November 17, 2023, the Canadian-flagged purse seiner, F/V Nita Maria is permitted to carry out purse seine test fishery operations with Puget Sound Salmon Management and Catch Reporting Areas 5 and 6C, including within the Strait of Juan de Fuca Salmon preserve defined in WAC 220-354-330:

(1) Allowed fishing period is immediately, through November 17, 2023.

(2) Up to 1,000 chum salmon may be taken over the entirety of the fishing period. All other fish must be released.

(3) F/V Nita Maria must notify the Puget Sound commercial salmon manager David Low which days, prior to fishery operation, that test fishery operations by F/V Nita Maria will be taking place. Notification shall be made via email to david.low@dfw.wa.gov or by phone at 1-360-688-0831.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 23-22-101
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-240—Filed October 30, 2023, 5:07 p.m., effective November 1, 2023]

Effective Date of Rule: November 1, 2023.

Purpose: The purpose of this emergency rule is to reduce the salmon daily limits for Bogachiel, Calawah, Dickey, Hoh, Quillayute, and Sol Duc rivers.

Citation of Rules Affected by this Order: Amending WAC 220-312-020.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is needed to reduce the salmon daily limit for Bogachiel, Calawah, Dickey, Hoh, Quillayute, and Sol Duc rivers.

In-season data indicate that Chinook and coho salmon are returning to the Quillayute watershed and Hoh River below preseason forecasts. This action is necessary to meet conservation guidelines and minimum spawner escapement goals.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 30, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000F Freshwater exceptions to statewide rules—Coast. Effective November 1 through December 15, 2023, the following provisions of WAC 220-312-020, regarding all salmon daily limits for Bogachiel, Calawah, Dickey, Hoh, Quillayute, and Sol Duc rivers shall be modified as described below. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

- (1) **Bogachiel River (Clallam Co.)**, from mouth to Hwy 101 Bridge:
November 1 through December 15: Salmon: Daily limit 1. Release sockeye.
- (2) **Calawah River (Clallam Co.)**, from the mouth to Hwy 101 Bridge:
November 1 through December 15: Salmon: Daily limit 1. Release sockeye.
- (3) **Dickey River (Clallam Co.)**, from Olympic National Park boundary upstream to the confluence of the East and West Forks:
November 1 through December 15: Salmon: Daily limit 1. Release sockeye.
- (4) **Hoh River (Jefferson Co.)**, from the Olympic National Park boundary upstream to Morgans Crossing boat launch:
(a) November 1 through November 30: Salmon: Daily limit 1.
(b) December 1 through December 31: Salmon: Daily limit 1. Release all salmon other than coho.
- (5) **Quillayute River (Clallam Co.)**, from Olympic National Park boundary upstream to confluence of Sol Duc and Bogachiel rivers:
November 1 through December 15: Salmon: Daily limit 1. Release sockeye.
- (6) **Sol Duc River (Clallam Co.)**, from mouth to the concrete pump station at Sol Duc Hatchery:
November 1 through December 15: Salmon: Daily limit 1. Release sockeye.

WSR 23-22-113
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-242—Filed October 31, 2023, 2:00 p.m., effective November 1, 2023]

Effective Date of Rule: November 1, 2023.

Purpose: The purpose of this emergency rule is to return gamefish seasons in the Snohomish watershed to permanent rules and to open or extend salmon seasons targeting coho in the Skykomish River, Snohomish River, Snoqualmie River, and Wallace River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000Y; and amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: In-season observations indicate coho salmon returns are sufficient to increase the salmon daily limit. The abundance of wild coho is greater than the preseason forecast.

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

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

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

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

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

Date Adopted: October 31, 2023.

Kelly Susewind
Director

[NEW SECTION]

WAC 220-312-04000Z Freshwater exceptions to statewide rules—Puget Sound. Effective immediately, until further notice, provisions of WAC 220-312-040 regarding recreational salmon fishing seasons for the Snohomish River system shall be modified as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

(1) **Skykomish River**, from mouth to confluence of North and South forks:

Effective November 1, through November 30: Salmon: Daily limit 2. Release Chinook and chum. Single-point barbless hooks required.

(2) Snohomish River: From the mouth to the confluence of Skykomish and Snoqualmie rivers:

Effective November 1, through November 30: Salmon: Daily limit 2. Release Chinook and chum. Single-point barbless hooks required.

(3) Snoqualmie River: From mouth to Snoqualmie Falls:

Effective November 1, through November 30, 2023: Salmon: Daily limit 2. Release Chinook and chum.

(4) Wallace River: From mouth (farthest downstream RR bridge) to 200' upstream of water intake of salmon hatchery:

Effective immediately, through November 30, 2023: Salmon daily limit is 4. Release all salmon other than coho and pinks.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

REPEALER

The following section of Washington Administrative Code is repealed, effective November 1, 2023:

WAC 220-312-04000Y Freshwater exceptions to statewide rules—Puget Sound. (23-235)

WSR 23-22-114
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-243—Filed October 31, 2023, 2:10 p.m., effective November 1, 2023]

Effective Date of Rule: November 1, 2023.

Purpose: The purpose of this emergency rule is to close salmon fishing in a portion of Elochoman River.

Citation of Rules Affected by this Order: Amending WAC 220-312-030.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary to close salmon fishing in Elochoman River downstream of the Beaver Creek Rd. Bridge.

The number of adult coho that have returned to Beaver Creek hatchery is far below the broodstock collection goal, based upon expected run timing. Closing this section of the Elochoman River to salmon retention will help increase the number of fish available for broodstock needs and help ensure future fisheries.

There is insufficient time to file permanent rules.

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

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

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

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

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

Date Adopted: October 31, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000H Freshwater exceptions to statewide rules—Southwest. Effective November 1, 2023, until further notice, the provisions of WAC 220-312-030 regarding Elochoman River salmon fishing seasons shall be modified during times and in areas as described below. All other provisions of WAC 220-312-030, not addressed herein, remain in effect unless otherwise amended by emergency rule:

**Elochoman River (Wahkiakum Co.); From the mouth to Beaver Creek
Rd. Bridge: Salmon: Closed.**

WSR 23-22-120
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-247—Filed October 31, 2023, 4:29 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The purpose of this emergency rule is to limit white sturgeon retention to three days per week when retention seasons open January 1 from Bonneville Dam to John Day Dam.

Citation of Rules Affected by this Order: Amending WAC 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is needed to set the open days-per-week for recreational sturgeon harvest in Bonneville and The Dalles reservoirs. Without altering open periods within permanent rules, these populations of sturgeon are at risk of exceeding retention guidelines within January, as indicated by the last decade of data. These actions are expected to extend the sport fishing seasons and to help ensure the overall sport guidelines of 675 and 190 fish in the Bonneville and The Dalles pools respectively, are not exceeded. This action is consistent with decisions made by the states of Washington and Oregon during the Columbia River Compact hearing on October 31, 2023.

The duration of the retention seasons will be adjusted if catch rates and efforts are much different than projected, based on pool-specific catch guidelines. The recommended days-per-week approach will allow fishery managers sufficient time to produce and monitor daily harvest estimates and recommend actions necessary to stay within the harvest guidelines.

The general public welfare is protected with the immediate and limited duration opening of recreational sturgeon fishing. This limited harvest allows for public use of the resource as well as the maintenance of a sustainable fish population.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 31, 2023.

Kelly Susewind

NEW SECTION

WAC 220-312-06000A Freshwater exceptions to statewide rules—Columbia River. Effective January 1, through February 7, 2024, the provisions of WAC 220-312-060, WAC 220-312-030, and WAC 220-316-010 regarding white sturgeon retention seasons from Bonneville Dam to John Day Dam are as follows. All other provisions of WAC 220-312-060, WAC 220-316-010, and WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From Bonneville Dam upstream to The Dalles Dam, including adjacent tributaries:

(a) From January 1, through February 7, 2024, it is permissible to retain white sturgeon only on the following dates:

January 1, 3, 6, 8, 10, 13, 15, 17, 20, 22, 24, 27, 29, 31;

February 3, 5, 7.

(b) Minimum fork length 38 inches. Maximum fork length 54 inches.

(c) Catch and release angling for sturgeon is permissible on days not open to sturgeon retention.

(2) From The Dalles Dam upstream to John Day Dam, including adjacent tributaries:

(a) From January 1, through January 29, 2024, it is permissible to retain white sturgeon only on the following dates:

January 1, 3, 6, 8, 10, 13, 15, 17, 20, 22, 24, 27, 29.

(b) Minimum fork length 43 inches. Maximum fork length 54 inches.

(c) Catch and release angling for sturgeon is permissible on days not open to sturgeon retention.

WSR 23-22-122
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-244—Filed November 1, 2023, 7:40 a.m., effective November 1, 2023, 7:40 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to extend recreational salmon seasons in a portion of Cascade River.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to extend recreational salmon seasons targeting coho in a portion of the Cascade River.

Cascade River coho returns have been greater than forecasted, and hatchery broodstock needs have been met. A harvestable surplus of coho exists in Cascade River.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 31, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000A Freshwater exceptions to statewide rules—Puget Sound. Effective immediately through November 30, 2023, the following provisions of WAC 220-312-040 regarding recreational salmon seasons for a portion of Cascade River, shall be modified as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

Cascade River (Skagit Co.): From mouth to Rockport-Cascade Rd. Bridge: Effective immediately, through November 30, 2023:

Salmon: Daily limit 4 coho. Release all salmon other than coho.
Night closure and Anti-snagging rule in effect.