

# Title 388 WAC

## DEPARTMENT OF SOCIAL AND HEALTH SERVICES (PUBLIC ASSISTANCE)

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### DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

#### Chapter 388-12

#### PUBLIC ASSISTANCE--PURPOSE--OBJECTIVES

388-12-010	Major purpose and objectives of public assistance--Purpose. [Regulation 2.10, filed 1/25/67; Regulation 2.10, filed 6/17/67, 1/24/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
388-12-020	Major purpose and objectives of public assistance--Objectives. [Regulation 2.20, filed 1/25/67; Regulation 2.20, filed 6/17/64, 1/24/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
388-12-030	Methods of administering public assistance. [Regulation 2.30, filed 6/17/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
388-12-040	Coordination with other community agencies. [Regulation 2.40, filed 6/17/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
388-12-050	Cooperation with private child placing or child caring agencies and institutions. [Regulation 2.50, filed 6/17/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
388-12-060	Services to recipient's family. [Regulation 2.60, filed 6/17/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.

## Chapter 388-16

## SOCIAL SERVICES IN PUBLIC ASSISTANCE

- 388-16-010 Aid to families with dependent children services—Purposes and objectives. [Regulation 3.11, filed 7/27/67; Regulation 3.11, filed 1/25/67, 6/14/66, 6/17/64; Regulation 3.12, filed 6/14/66, 6/17/64.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-015 Aid to families with dependent children services—Definitions. [Order 527, § 388-16-015, filed 3/31/71, effective 5/1/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-020 Aid to families with dependent children services—Rights of applicants and recipients. [Order 527, § 388-16-020, filed 3/31/71, effective 5/1/71; Regulation 3.12, filed 7/27/67; Regulation 3.12, filed 1/25/67, 6/14/66, 6/17/64; Regulation 3.122, filed 6/14/66.] Repealed by Order 1088, filed 1/19/76.
- 388-16-050 Aid to families with dependent children services—Eligible persons. [Order 729, § 388-16-050, filed 10/27/72; Order 670, § 388-16-050, filed 4/14/72; Order 527, § 388-16-050, filed 3/31/71, effective 5/1/71; Regulation 3.14, filed 7/27/67.] Repealed by Order 1088, filed 1/19/76.
- 388-16-055 Aid to families with dependent children services—Services for eligible persons. [Order 729, § 388-16-055, filed 10/27/72; Order 670, § 388-16-055, filed 4/14/72.] Repealed by Order 1088, filed 1/19/76.
- 388-16-060 Aid to families with dependent children services—Defined service families—Services provided. [Order 527, § 388-16-060, filed 3/31/71, effective 5/1/71; Regulation 3.141, filed 7/27/67; Regulation 3.141, filed 5/17/67, 1/25/67, 6/14/66.] Repealed by Order 1088, filed 1/19/76.
- 388-16-070 Aid to families with dependent children services—Intake services and initial social studies. [Regulation 3.142, filed 7/27/67; Regulation 3.142, filed 1/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-075 Aid to families with dependent children services—Community planning. [Regulation 3.143, filed 7/27/67; Regulation 3.1421, filed 1/25/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-080 Aid to families with dependent children services—Continued care cases. [Regulation 3.144, filed 7/27/67; Regulation 3.143, filed 1/25/67, 6/14/66.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-110 Aid to families with dependent children services—Duration of service. [Order 527, § 388-16-110, filed 3/31/71, effective 5/1/71; Regulation 3.145, filed 7/27/67; Regulation 3.144, filed 1/25/67, 6/14/66.] Repealed by Order 1088, filed 1/19/76.
- 388-16-115 AFDC services—Family planning services. [Order 1204, § 388-16-115, filed 4/1/77; Order 1088, § 388-16-115, filed 1/19/76; Order 527, § 388-16-115, filed 3/31/71, effective 5/1/71; Order 364, § 388-16-115, filed 7/9/69.] Repealed by Order 1238, filed 8/31/77.
- 388-16-120 Services standards. [Regulation 3.15, filed 7/27/67; Regulation 3.17 (part), filed 6/14/66, 6/17/64.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-150 Selection of best qualified staff—Assignment by county administrators. [Regulation 3.16, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-160 Aid to families with dependent children service case—Definition. [Regulation 3.17, filed 7/27/67; Regulation 3.19, filed 1/25/67, 6/14/66, 6/17/69.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-170 Recording of services. [Regulation 3.18, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-180 Complementary services. [Regulation 3.19, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-190 Homemaker service. [Regulation 3.191, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-200 Special services for self-support. [Regulation 3.192, filed 7/27/67.] Repealed by Order 392, filed 10/15/69.
- 388-16-210 Aid to families with dependent children services—Day care and in-home care (baby-sitting) services. [Order 1001, § 388-16-210, filed 1/14/75; Order 925, § 388-16-210, filed 4/15/74; Order 828, § 388-16-210, filed 7/26/73; Order 720, § 388-16-210, filed 9/28/72; Order 692, § 388-16-210, filed 6/29/72; Order 611, § 388-16-210, filed 9/23/71; Order 551, § 388-16-210, filed 4/1/71; Order 527, § 388-16-210, filed 3/31/71, effective 5/1/71; Emergency Order 569, § 388-16-210, filed 5/25/71; Order 439, § 388-16-210, filed 4/15/70; Order 425, § 388-16-210, filed 1/21/70; Order 392, § 388-16-210, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-213 Standards of in-home care. [Order 828, § 388-16-213, filed 7/26/73.] Repealed by Order 1088, filed 1/19/76.
- 388-16-215 Standards of in-home care—Payment standards for day care and in-home care. [Order 1052, § 388-16-215, filed 9/10/75; Order 907, § 388-16-215, filed 2/14/74; Order 720, § 388-16-215, filed 9/28/72; Order 692, § 388-16-215, filed 6/29/72; Order 611, § 388-16-215, filed 9/23/71; Order 527, § 388-16-215, filed 3/31/71, effective 5/1/71; Order 425, § 388-16-215, filed 1/21/70; Order 392, § 388-16-215, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-220 Standards of in-home care—Summer camperships—Standards for purchase. [Order 576, § 388-16-220, filed 7/8/71; Order 527, § 388-16-220, filed 3/31/71, effective 5/1/71; Order 460, § 388-16-220, filed 6/17/70.] Repealed by Order 1088, filed 1/19/76.
- 388-16-225 Purchase of child welfare services—Agency—Licensing—Federal requirements. [Order 784, § 388-16-225, filed 3/30/73.] Repealed by Order 1238, filed 8/31/77.
- 388-16-300 Personal service in alternate care living arrangement—Purposes and objectives. [Order 318, § 388-16-300, filed 11/27/68.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-305 Personal service in alternate care—Definition. [Order 933, § 388-16-305, filed 5/15/74; Order 527, § 388-16-305, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-305, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76.
- 388-16-310 Personal service in alternate care—Persons eligible. [Order 933, § 388-16-310, filed 5/15/74; Order 527, § 388-16-310, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-310, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76.
- 388-16-315 Personal service in alternate care—Plan for services and supervision. [Order 933, § 388-16-315, filed 5/15/74; Order 527, § 388-16-315, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-315, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76.
- 388-16-320 Personal service in alternate care living arrangement—Acceptance of plan for person referred by mental hospital. [Order 318, § 388-16-320, filed 11/27/68.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-325 Personal service in alternate care—Services provided. [Order 933, § 388-16-325, filed 5/15/74; Order 527, § 388-16-325, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-325, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76.
- 388-16-330 Personal service in alternate care living arrangement—Standards for administration. [Order 318, § 388-16-330, filed 11/27/68.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-335 Congregate care—Definition. [Order 965, § 388-16-335, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.

- 388-16-336 Congregate care—Eligible persons. [Order 965, § 388-16-336, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-337 Congregate care—Determination of need. [Order 965, § 388-16-337, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-338 Congregate care—Placement in facility. [Order 965, § 388-16-338, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-339 Congregate care—Absence or discharge. [Order 965, § 388-16-339, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-340 Congregate care—Payment—Standards—Procedures. [Order 1017, § 388-16-340, filed 4/14/75; Order 965, § 388-16-340, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-341 Congregate care—Application. [Order 965, § 388-16-341, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-342 Congregate care—Services to be provided by operator. [Order 965, § 388-16-342, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-343 Congregate care—Agreement. [Order 965, § 388-16-343, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-400 Adult services—Objectives. [Order 625, § 388-16-400, filed 11/11/71; Order 527, § 388-16-400, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-400, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-402 Adult services—Eligible persons. [Order 933, § 388-16-402, filed 5/15/74; Order 625, § 388-16-402, filed 11/11/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-405 Adult services—Rights of applicant, recipient and beneficiary. [Order 933, § 388-16-405, filed 5/15/74; Order 527, § 388-16-405, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-405, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-410 Adult services—Entry services. [Order 933, § 388-16-410, filed 5/15/74; Order 625, § 388-16-410, filed 11/11/71; Order 527, § 388-16-410, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-410, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-415 Adult services—Ongoing services. [Order 933, § 388-16-415, filed 5/15/74; Order 527, § 388-16-415, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-415, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-425 Chore services for adult without minor child in home—Objective—Definition—Eligible persons. [Order 933, § 388-16-425, filed 5/15/74; Order 601, § 388-16-425, filed 9/8/71.] Repealed by Order 1088, filed 1/19/76. Later promulgation, see WAC 388-16-42501.
- 388-16-42501 Chore services—Objective—Definition—Eligible persons. [Order 1088, § 388-16-425 (Codified WAC 388-16-42501), filed 1/19/76. Formerly WAC 388-16-425.] Repealed by Order 1238, filed 8/31/77.
- 388-16-430 Chore services—Standards for determining need. [Order 1088, § 388-16-430, filed 1/19/76; Order 933, § 388-16-430, filed 5/15/74; Order 601, § 388-16-430, filed 9/8/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-435 Chore services for adult without minor child in home—Standards for payment of cost—FICA tax. [Order 933, § 388-16-435, filed 5/15/74; Order 692, § 388-16-435, filed 6/29/72; Order 649, § 388-16-435, filed 2/9/72; Order 601, § 388-16-435, filed 9/8/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-440 Chore services for adult without minor child in home—Continuing eligibility. [Order 601, § 388-16-440, filed 9/8/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-450 Homemaker service to adults—Purpose and objectives. [Order 933, § 388-16-450, filed 5/15/74; Order 527, § 388-16-450, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-450, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-455 Homemaker services—Policies for providing. [Order 1088, § 388-16-455, filed 1/19/76; Order 933, § 388-16-455, filed 5/15/74; Order 527, § 388-16-455, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-455, filed 10/15/69.] Repealed by Order 1238, filed 8/31/77.
- 388-16-460 Homemaker service—Definition and purpose. [Order 1088, § 388-16-460, filed 1/19/76; Order 608, § 388-16-460, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-462 Homemaker services—Payment. [Order 1088, § 388-16-462, filed 1/19/76; Order 608, § 388-16-462, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-464 Homemaker services—Staff. [Order 1088, § 388-16-464, filed 1/19/76; Order 608, § 388-16-464, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-466 Homemaker service for families with children—Conditions and limitations when provided. [Order 608, § 388-16-466, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-470 Adult services—Purchase of service—Sheltered workshop and activity center—Other providers—Purpose. [Order 933, § 388-16-470, filed 5/15/74; Order 589, § 388-16-470, filed 8/18/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-475 Adult services—Persons eligible. [Order 933, § 388-16-475, filed 5/15/74; Order 589, § 388-16-475, filed 8/18/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-480 Adult services—Payment. [Order 933, § 388-16-480, filed 5/15/74; Order 589, § 388-16-480, filed 8/18/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-482 Summer camperships for adults—Definition. [Order 690, § 388-16-482, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-484 Summer camperships for adults—Persons eligible. [Order 690, § 388-16-484, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-486 Summer camperships for adults—Selection of individuals. [Order 690, § 388-16-486, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-488 Summer camperships for adults—Payment conditions. [Order 690, § 388-16-488, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-490 Services to adult offender—Definitions. [Order 608, § 388-16-490, filed 9/22/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-495 Services to adult offender—Persons eligible. [Order 608, § 388-16-495, filed 9/22/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-500 Child protective services—Legislative declaration—Duty to provide. [Order 1078, § 388-16-500, filed 12/24/75; Order 608, § 388-16-500, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-505 Child protective services—Definitions. [Order 1078, § 388-16-505, filed 12/24/75; Order 608, § 388-16-505, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-510 Child protective services—Acceptance of reports—Eligibility for services. [Order 1152, § 388-16-510, filed 9/22/76; Order 1078, § 388-16-510, filed 12/24/75; Order 828, § 388-16-510, filed 7/26/73; Order 608, § 388-16-510, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-512 Child protective services—Notification—Substantiation. [Order 1078, § 388-16-512, filed 12/24/75; Order 984, § 388-16-512, filed 11/29/74; Order 828, § 388-16-512, filed 7/26/73.] Repealed by Order 1238, filed 8/31/77.
- 388-16-515 Child abuse—Mandatory reporting—Immunity from civil liability. [Order 1078, § 388-16-515, filed 12/24/75; Order 984, § 388-16-515, filed 11/29/74; Order 608, § 388-16-515, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-520 Child abuse—Information to be reported. [Order 1078, § 388-16-520, filed 12/24/75; Order 608, § 388-16-520, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.

- 388-16-525 Central registry—Definition—Duty to maintain. [Order 1075, § 388-16-525, filed 12/17/75; Order 984, § 388-16-525, filed 11/29/74; Order 828, § 388-16-525, filed 7/26/73; Order 693, § 388-16-525, filed 6/29/72; Order 608, § 388-16-525, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-530 Central registry—Purpose. [Order 693, § 388-16-530, filed 6/29/72; Order 608, § 388-16-530, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-535 Central registry—Storage and retrieval of information. [Order 984, § 388-16-535, filed 11/29/74; Order 828, § 388-16-535, filed 7/26/73; Order 693, § 388-16-535, filed 6/29/72; Order 608, § 388-16-535, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-540 Central registry—Information—Release—Dissemination—Expungement. [Order 1078, § 388-16-540, filed 12/24/75; Order 984, § 388-16-540, filed 11/29/74; Order 828, § 388-16-540, filed 7/26/73; Order 693, § 388-16-540, filed 6/29/72.] Repealed by Order 1238, filed 8/31/77.
- 388-16-545 Central registry—Eligibility procedures and criteria. [Order 1075, § 388-16-545, filed 12/17/75; Order 984, § 388-16-545, filed 11/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-550 Support enforcement services for child(ren) not receiving public assistance—Statutory basis. [Order 624, § 388-16-550, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-555 Support enforcement services for child(ren) not receiving public assistance—Persons eligible. [Order 624, § 388-16-555, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-560 Support enforcement services for child(ren) not receiving public assistance—Application. [Order 624, § 388-16-560, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-565 Support enforcement services for child(ren) not receiving public assistance—Applicant's assignment of rights. [Order 624, § 388-16-565, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-570 Support enforcement services for child(ren) not receiving public assistance—Fees—Limitations. [Order 624, § 388-16-570, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-575 Support enforcement services for child(ren) not receiving public assistance—Disposition of absent parent payments to custodian of child(ren). [Order 624, § 388-16-575, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-580 Support enforcement services for child(ren) not receiving public assistance—Department's obligation after accepting application. [Order 624, § 388-16-580, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-585 Support enforcement services for child(ren) not receiving public assistance—Request to terminate service. [Order 624, § 388-16-585, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-30-030 Continuing eligibility—Disability assistance. [Order 637, § 388-30-030, filed 1/13/72; Order 533, § 388-30-030, filed 3/31/71, effective 5/1/71; Regulation 9.14, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-30-040 Continuing eligibility—Continuing general assistance to unemployable persons. [Order 533, § 388-30-040, filed 3/31/71, effective 5/1/71; Order 490, § 388-30-040, filed 10/30/70, effective 12/1/70; Regulation 9.15, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-30-050 Continuing eligibility—Age. [Order 917, § 388-30-050, filed 3/14/74; Order 620, § 388-30-050, filed 10/27/71; Order 533, § 388-30-050, filed 3/31/71, effective 5/1/71; Order 490, § 388-30-050, filed 10/30/70, effective 12/1/70; Order 367, § 388-30-050, filed 7/9/69; Regulation 9.21, filed 12/31/65; Regulation 9.21, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-055 Continuing eligibility—Residence. [Order 533, § 388-30-055, filed 3/31/71, effective 5/1/71; Order 490, § 388-30-055, filed 10/30/70, effective 12/1/70; Order 367, § 388-30-055, filed 7/9/69; Regulation 9.221, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-060 Continuing eligibility—Institutional living arrangement. [Order 533, § 388-30-060, filed 3/31/71, effective 5/1/71; Regulation 9.23, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-065 Continuing eligibility—Transfer of exempt property. [Order 533, § 388-30-065, filed 3/31/71, effective 5/1/71; Regulation 9.24, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-070 Continuing eligibility—Exempt property transferable without consent. [Order 533, § 388-30-070, filed 3/31/71, effective 5/1/71; Order 459, § 388-30-070, filed 5/26/70, effective 7/1/70; Regulation 9.241, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-075 Continuing eligibility—Exempt property transferable with consent. [Order 533, § 388-30-075, filed 3/31/71, effective 5/1/71; Order 459, § 388-30-075, filed 5/26/70, effective 7/1/70; Regulation 9.242, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-078 Replacement of exempt property. [Order 1194, § 388-30-078, filed 3/3/77.] Repealed by Order 1241, filed 9/23/77.
- 388-30-080 Continuing eligibility—Property transferred contrary to WAC 388-30-070 and 388-30-075. [Order 533, § 388-30-080, filed 3/31/71, effective 5/1/71; Order 459, § 388-30-080, filed 5/26/70, effective 7/1/70; Regulation 9.243, filed 12/21/64, effective 2/1/65; Regulation 9.243, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-085 Continuing eligibility—Financial need. [Order 533, § 388-30-085, filed 3/31/71, effective 5/1/71; Regulation 9.25, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-090 Continuing eligibility—Nonexempt resources and income known at time of application. [Order 1058, § 388-30-090, filed 10/1/75; Order 533, § 388-30-090, filed 3/31/71, effective 5/1/71; Regulation 9.251, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-095 Continuing eligibility—Effect of newly acquired income and property on need. [Order 1224, § 388-30-095, filed 7/19/77; Order 975, § 388-30-095, filed 10/11/74; Order 917, § 388-30-095, filed 3/14/74; Order 533, § 388-30-095, filed 3/31/71, effective 5/1/71; Regulation 9.252, filed 10/4/67; Regulation 9.252, filed 5/17/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.

#### Chapter 388-30

#### AID TO FAMILIES WITH DEPENDENT CHILDREN AND CONTINUING GENERAL ASSISTANCE--CONTINUING ELIGIBILITY

- 388-30-010 Continuing eligibility. [Order 533, § 388-30-010, filed 3/31/71, effective 5/1/71; Regulation 9.00, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-015 Factors not common to all categories—Old age assistance. [Regulation 9.11, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-30-020 Continuing eligibility—Aid to blind. [Order 533, § 388-30-020, filed 3/31/71, effective 5/1/71; Regulation 9.12, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-30-025 Continuing eligibility—Aid to families with dependent children. [Order 976, § 388-30-025, filed 10/28/74; Order 918, § 388-30-025, filed 3/14/74; Order 830, § 388-30-025, filed 7/26/73; Order 533, § 388-30-025,

- 388-30-100 Continuing eligibility—Effect of newly acquired non-exempt income on need. [Order 1058, § 388-30-100, filed 10/1/75; Order 533, § 388-30-100, filed 3/31/71, effective 5/1/71; Regulation 9.253, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-105 Responsibility for eligibility maintenance. [Order 533, § 388-30-105, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-105, filed 5/14/70, effective 6/15/70; Regulation 9.261, filed 7/27/67; Regulation 9.261, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-107 Responsibility for eligibility maintenance—Recipient. [Order 1016, § 388-30-107, filed 4/1/75; Order 842, § 388-30-107, filed 8/9/73; Order 790, § 388-30-107, filed 4/12/73; Order 533, § 388-30-107, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-107, filed 5/14/70, effective 6/15/70.] Repealed by Order 1241, filed 9/23/77.
- 388-30-110 Responsibility for eligibility maintenance—Local office. [Order 533, § 388-30-110, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-110, filed 5/14/70, effective 6/15/70.] Repealed by Order 1241, filed 9/23/77.
- 388-30-115 Responsibility for eligibility maintenance—Recipient's whereabouts unknown or failure to provide eligibility data. [Order 906, § 388-30-115, filed 2/14/74; Order 746, § 388-30-115, filed 12/7/72; Order 533, § 388-30-115, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-115, filed 5/14/70, effective 6/15/70; Regulation 9.263, filed 3/11/65.] Repealed by Order 1241, filed 9/23/77.
- 388-30-120 Responsibility for eligibility maintenance—Reasonable doubt of eligibility—Warrant withheld. [Order 533, § 388-30-120, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-120, filed 5/14/70, effective 6/15/70; Order 269, § 388-30-120, filed 12/5/67; Regulation 9.264, filed 3/11/65.] Repealed by Order 746, filed 12/7/72.
- 388-30-121 Responsibility for eligibility maintenance—Redirection of warrant. [Order 746, § 388-30-121, filed 12/7/72.] Repealed by Order 1241, filed 9/23/77.
- 388-30-125 Periodic review and redetermination of eligibility. [Order 917, § 388-30-125, filed 3/14/74; Order 841, § 388-30-125, filed 8/9/73; Order 746, § 388-30-125, filed 12/7/72; Order 533, § 388-30-125, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-125, filed 5/14/70, effective 6/15/70; Regulation 9.27, filed 7/27/67; Regulation 9.27, filed 6/17/64, effective 8/1/64, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-130 Periodic review and redetermination of eligibility—Content of review. [Order 533, § 388-30-130, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-130, filed 5/14/70, effective 6/15/70; Regulation 9.271, filed 6/17/64, effective 8/1/64; Regulation 9.271, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-135 Periodic review and redetermination of eligibility—Action on review. [Order 533, § 388-30-135, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-135, filed 5/14/70, effective 6/15/70; Regulation 9.272, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-140 Periodic review and redetermination of eligibility—Changing and terminating grant. [Order 533, § 388-30-140, filed 3/31/71, effective 5/1/71; Regulation 9.28, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-150 Supplemental assistance—Requirements of recipient enrolled in community training level 4 or 5 course of remedial or vocational education. [Regulation 9.31, filed 8/29/66; Regulation 9.31, filed 12/31/65.] Repealed by Order 327, filed 11/27/68.
- 388-30-160 Supplemental assistance—Transportation for enrolled recipient. [Regulation 9.311, filed 12/31/65.] Repealed by Order 327, filed 11/27/68.
- 388-30-165 Supplemental assistance—Care of child of enrolled recipient. [Regulation 9.312, filed 12/31/65.] Repealed by Order 327, filed 11/27/68.
- 388-30-170 Supplemental assistance—Tuition, supplies and materials, uniforms. [Regulation 9.313, filed 12/31/65.] Repealed by Order 327, filed 11/27/68.
- 388-30-175 Supplemental assistance—Requirements of federal aid recipient enrolled in Title V project of economic opportunity act. [Regulation 9.32, filed 7/27/67; Regulation 9.32, filed 8/29/66, 12/31/65.] Repealed by Order 327, filed 11/27/68.

## Chapter 388-36

## GENERAL ASSISTANCE--NONCONTINUING--ELIGIBILITY--PAYMENT

- 388-36-010 Noncontinuing general assistance. [Order 536, § 388-36-010, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-010, filed 12/31/69; Order 294, § 388-36-010, filed 7/10/68; Regulation 12.00, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-015 Employable person—Defined. [Order 294, § 388-36-015, filed 7/10/68; Regulation 12.01, filed 12/31/65, effective 2/1/66; Regulation 12.01, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-025 Noncontinuing general assistance—Eligibility conditions—Summary. [Order 760, § 388-36-025, filed 12/28/72; Order 536, § 388-36-025, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-025, filed 12/31/69; Order 368, § 388-36-025, filed 7/9/69; Order 294, § 388-36-025, filed 7/10/68; Order 250, § 388-36-025, filed 11/1/67; Regulation 12.10, filed 12/31/65, effective 2/1/66; Regulation 12.10, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-055 Full-time employment. [Order 250, § 388-36-055, filed 11/1/67; Regulation 12.12, filed 12/31/65, effective 2/1/66; Regulation 12.12, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-060 Full-time employment—Effect on eligibility. [Order 250, § 388-36-060, filed 11/1/67; Regulation 12.121, filed 12/31/65, effective 2/1/66; Regulation 12.121, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-070 Noncontinuing general assistance—Limitations on eligibility. [Order 760, § 388-36-070, filed 12/28/72; Order 633, § 388-36-070, filed 12/24/71; Order 622, § 388-36-070, filed 10/27/71; Order 536, § 388-36-070, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-070, filed 12/31/69; Order 250, § 388-36-070, filed 11/1/67; Regulation 12.13, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-080 Transfer of resource. [Order 294, § 388-36-080, filed 7/10/68; Regulation 12.14, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-095 Noncontinuing general assistance—Requirements. [Order 653, § 388-36-095, filed 2/9/72; Order 536, § 388-36-095, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-095, filed 12/31/69; Order 294, § 388-36-095, filed 7/10/68; Order 250, § 388-36-095, filed 11/1/67; Regulation 12.151, filed 12/31/65, effective 2/1/66; Regulation 12.151, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-100 Noncontinuing general assistance—Computing income. [Order 536, § 388-36-100, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-100, filed 12/31/69; Regulation 12.152, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-105 Noncontinuing general assistance—Exempt and nonexempt resources and income. [Order 536, § 388-36-105, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-105, filed 12/31/69; Regulation 12.153, filed 12/31/65, effective 2/1/66; Regulation 12.153, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-110 Noncontinuing general assistance—Utilization of resources and income by noncontinuing general assistance recipient. [Order 536, § 388-36-110, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-110,

filed 12/31/69; Regulation 12.154, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-125 Noncontinuing general assistance—Assistance unit defined. [Order 760, § 388-36-125, filed 12/28/72; Order 659, § 388-36-125, filed 2/23/72; Order 536, § 388-36-125, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-125, filed 12/31/69; Regulation 12.20, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-160 Other persons eligible for noncontinuing general assistance. [Order 294, § 388-36-160, filed 7/10/68; Regulation 12.30, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-170 Applicant for federal aid or continuing general assistance. [Regulation 12.32, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-180 Noncontinuing general assistance—Applicant without intent to remain in state. [Order 536, § 388-36-180, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-180, filed 12/31/69; Order 368, § 388-36-180, filed 7/9/69; Order 294, § 388-36-180, filed 7/10/68; Regulation 12.33, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-190 Other persons temporarily in need. [Order 294, § 388-36-190, filed 7/10/68; Regulation 12.34, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-200 Immediate grant. [Regulation 12.35, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-202 Noncontinuing general assistance—Application. [Order 536, § 388-36-202, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-202, filed 12/31/69.] Repealed by Order 841, filed 8/9/73.

388-36-205 Computation, authorization, reauthorization of grant. [Regulation 12.40, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-210 Noncontinuing general assistance—Effective date of eligibility. [Order 536, § 388-36-210, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-210, filed 12/31/69; Regulation 12.41, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-220 Grant amount. [Regulation 12.42, filed 1/24/64.] Repealed by Order 536, filed 3/31/71, effective 5/1/71.

388-36-230 Noncontinuing general assistance—Grant period. [Order 536, § 388-36-230, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-230, filed 12/31/69; Regulation 12.43, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-240 Noncontinuing general assistance—Authorization and re-authorization of grant. [Order 536, § 388-36-240, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-240, filed 12/31/69; Regulation 12.44, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-245 Noncontinuing general assistance—Notification to recipient. [Order 536, § 388-36-245, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-245, filed 12/31/69; Regulation 12.441, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-255 Noncontinuing general assistance—Payment of grant. [Order 536, § 388-36-255, filed 3/31/71, effective 5/1/71; Order 450, § 388-36-255, filed 5/14/70, effective 6/15/70; Order 417, § 388-36-255, filed 12/31/69; Regulation 12.50, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-265 Noncontinuing general assistance—Vendor payment. [Order 536, § 388-36-265, filed 3/31/71, effective 5/1/71; Order 450, § 388-36-265, filed 5/14/70, effective 6/15/70; Order 417, § 388-36-265, filed 12/31/69; Regulation 12.51, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

#### Chapter 388-39 MEDICAL CARE

[Regulation 14.00 through 14.33, filed 1/24/64.] Repealed by Order 244, filed 10/20/67.

#### Chapter 388-50 CASE RECORDS—CASE NUMBERING

[Regulation 19.01 through 19.43, filed 1/24/64.] Repealed by Order 276, filed 1/29/68.

#### Chapter 388-56 COMMUNITY WORK AND TRAINING

388-56-010, 388-56-020, 388-56-030, 388-56-050, 388-56-060, 388-56-070, 388-56-080, 388-56-090, 388-56-150, 388-56-160, 388-56-170, 388-56-180, 388-56-190, 388-56-220, 388-56-230, 388-56-240, 388-56-260, 388-56-270, 388-56-280, 388-56-290, 388-56-300, 388-56-310, 388-56-315, 388-56-320, 388-56-340, 388-56-360, 388-56-370, 388-56-380, 388-56-390. [Regulation 22.00 through 22.63, filed 6/30/67.] Repealed by Order 326, filed 11/27/68.

388-56-040 [Order 279, § 388-56-040, filed 2/14/68; Regulation 22.02, filed 6/30/67.] Repealed by Order 326, filed 11/27/68.

388-56-330 [Regulation 22.58, filed 6/30/67.] Repealed by Order 277, filed 1/29/68 and Order 282, filed 2/14/68.

#### Chapter 388-58 CUBAN REFUGEE ASSISTANCE

388-58-010 Cuban refugee assistance. [Regulation 24.00, filed 12/21/64, effective 2/1/65; Regulation 24.00, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.

388-58-020 Scope of program—Federal auspices. [Regulation 24.11, filed 12/21/64, effective 2/1/65; Regulation 24.11, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.

388-58-025 Scope of program—Organization in Florida. [Regulation 24.12, filed 12/21/64, effective 2/1/65; Regulation 24.12, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.

388-58-030 Scope of program—Transition allowances. [Regulation 24.13, filed 12/21/64, effective 2/1/65; Regulation 24.13, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.

388-58-040 Cuban refugee assistance—Administration—Federal-state-local relationships. [Order 969, § 388-58-040, filed 9/13/74; Order 804, § 388-58-040, filed 5/31/73; Order 545, § 388-58-040, filed 3/31/71, effective 5/1/71; Regulation 24.21, filed 3/31/66; Regulation 24.21, filed 12/21/64, effective 2/1/65; Regulation 24.21, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.

388-58-050 Cuban refugee assistance—Refugee status defined. [Order 969, § 388-58-050, filed 9/13/74; Order 804, § 388-58-050, filed 5/31/73; Order 545, § 388-58-050, filed 3/31/71, effective 5/1/71; Regulation 24.22, filed 12/21/64, effective 2/1/65; Regulation 24.22, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.

388-58-060 Cuban refugee assistance—Eligibility conditions. [Order 969, § 388-58-060, filed 9/13/74; Order 804, § 388-58-060, filed 5/31/73; Order 545, § 388-58-060, filed 3/31/71, effective 5/1/71; Regulation 24.30, filed 12/21/64, effective 2/1/65; Regulation 24.30, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.

388-58-065 Cuban refugee assistance—Relatives joining resettled refugee. [Order 545, § 388-58-065, filed 3/31/71, effective 5/1/71; Regulation 24.31, filed 12/21/64, effective 2/1/65; Regulation 24.31, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.

388-58-070 Cuban refugee assistance—Financial need. [Order 545, § 388-58-070, filed 3/31/71, effective 5/1/71; Regulation 24.32, filed 12/21/64, effective 2/1/65; Regulation 24.32, filed 6/17/64, effective 8/1/64; Regulation 24.32, filed 1/24/64, effective 8/1/64.] Repealed by Order 1177, filed 12/23/76.

388-58-075 Cuban refugee assistance—Other eligibility considerations. [Order 545, § 388-58-075, filed 3/31/71, effective 5/1/71; Regulation 24.33, filed 12/21/64, effective 2/1/65; Regulations 24.33, 24.34, 24.35, 24.36, 24.37, and 24.38, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.

- 388-58-080 Records. [Regulation 24.34, filed 12/21/64, effective 2/1/65; Regulation 24.39, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-090 Cuban refugee assistance—Payment of grant or foster care. [Order 545, § 388-58-090, filed 3/31/71, effective 5/1/71; Regulation 24.41, filed 12/21/64, effective 2/1/65; Regulation 24.41, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-100 Payment—Medical care. [Regulation 24.42, filed 12/21/64, effective 2/1/65; Regulation 24.34, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-120 Reporting. [Regulation 24.50, filed 12/21/64, effective 2/1/65; Regulation 24.50, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-130 Cuban refugee assistance—Unaccompanied children. [Order 969, § 388-58-130, filed 9/13/74; Order 545, § 388-58-130, filed 3/31/71, effective 5/1/71; Regulation 24.60, filed 12/21/64, effective 2/1/65; Regulation 24.60, filed 6/17/64, effective 8/1/64, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-65-055 Daily attendance record. [Order 257, § 388-65-055, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-060 Reporting of injuries and death. [Order 257, § 388-65-060, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-065 First aid—Medical care. [Order 257, § 388-65-065, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-070 First aid—Characteristics of foster family. [Order 753, § 388-65-070, filed 12/14/72; Order 421, § 388-65-070, filed 1/21/70; Order 308, § 388-65-070, filed 9/20/68; Order 257, § 388-65-070, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-080 Discipline. [Order 257, § 388-65-080, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-090 Physical aspects of home. [Order 421, § 388-65-090, filed 1/21/70; Order 257, § 388-65-090, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-100 Physical aspects of home—Additional requirements for full-time foster care. [Order 753, § 388-65-100, filed 12/14/72; Order 257, § 388-65-100, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-200 Additional requirements for family day care homes for children. [Order 257, § 388-65-200, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-210 Additional requirements for family day care homes for children—Additional requirements for homes for expectant mothers. [Order 753, § 388-65-210, filed 12/14/72; Order 257, § 388-65-210, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-300 Additional requirements for the care of mentally retarded adults. [Order 257, § 388-65-300, filed 11/24/67.] Repealed by Order 753, filed 12/14/72.
- 388-65-310 Additional requirements for the care of mentally retarded adults—Discrimination prohibited. [Order 505, § 388-65-310, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-64****MINIMUM LICENSING REQUIREMENTS FOR GROUP HOMES**

- 388-64-005, 388-64-010, 388-64-015, 388-64-020, 388-64-025, 388-64-030, 388-64-035, 388-64-040, 388-64-045, 388-64-050, 388-64-055, 388-64-060, 388-64-065, 388-64-105, 388-64-110, 388-64-115, 388-64-120, 388-64-125, 388-64-130, 388-64-135, 388-64-140, 388-64-145, 388-64-200, 388-64-205, 388-64-210, 388-64-215, 388-64-220, 388-64-225, 388-64-230, 388-64-235, 388-64-240, 388-64-245, 388-64-300, 388-64-305, 388-64-310, 388-64-400, 388-64-410, 388-64-500, 388-64-510, 388-64-515. [Order 347, filed 5/29/69.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-64-100 [Order 420, § 388-64-100, filed 1/21/70; Order 347, § 388-64-100, filed 5/29/69.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-64-525 [Order 504, § 388-64-525, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-65****FOSTER FAMILY HOMES—FAMILY DAY CARE HOMES—LICENSING—MINIMUM REQUIREMENTS**

- 388-65-010 Foster family homes—Definitions and exceptions. [Order 753, § 388-65-010, filed 12/14/72; Order 257, § 388-65-010, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-020 Foster family homes—Capacity of home—Limitations on ages and numbers. [Order 753, § 388-65-020, filed 12/14/72; Order 421, § 388-65-020, filed 1/21/70; Order 257, § 388-65-020, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-030 Foster family homes—Application for license. [Order 753, § 388-65-030, filed 12/14/72; Order 257, § 388-65-030, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-035 Duration and provisions of license. [Order 257, § 388-65-035, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-038 Duration and provisions of license—Limitation on licensing. [Order 753, § 388-65-038, filed 12/14/72.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-040 Periodic visits—Consultation. [Order 257, § 388-65-040, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-045 Administrative hearings. [Order 257, § 388-65-045, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-050 Register. [Order 257, § 388-65-050, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-66****DAY CARE CENTERS—LICENSING—MINIMUM REQUIREMENTS**

- 388-66-005, 388-66-010, 388-66-015, 388-66-020, 388-66-025, 388-66-030, 388-66-035, 388-66-040, 388-66-045, 388-66-050, 388-66-055, 388-66-060, 388-66-065, 388-66-070, 388-66-095, 388-66-110, 388-66-120, 388-66-125, 388-66-135, 388-66-150, 388-66-155, 388-66-165, 388-66-170, 388-66-175, 388-66-180, 388-66-185, 388-66-190, 388-66-195, 388-66-200, 388-66-230, 388-66-245, 388-66-250. [Order 258, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-66-090, 388-66-115, 388-66-130, 388-66-160, 388-66-220, 388-66-225, 388-66-235, 388-66-240, 388-66-255, 388-66-300. [Order 422, filed 1/21/70; Order 258, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-66-310 [Order 506, § 388-66-310, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-67****MATERNITY HOMES—LICENSING—MINIMUM REQUIREMENTS**

- 388-67-005, 388-67-010, 388-67-020, 388-67-025, 388-67-030, 388-67-035, 388-67-040, 388-67-045, 388-67-050, 388-67-055, 388-67-060, 388-67-065, 388-67-070, 388-67-100, 388-67-105, 388-67-150, 388-67-155, 388-67-160, 388-67-165, 388-67-170, 388-67-175, 388-67-200, 388-67-205, 388-67-250, 388-67-255, 388-67-260, 388-67-265, 388-67-270, 388-67-275, 388-67-280, 388-67-300, 388-67-305, 388-67-310, 388-67-315, 388-67-325, and

388-67-335. [Order 259, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-67-210, 388-67-320, 388-67-330. [Order 423, filed 1/21/70; Order 259, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-67-345 [Order 507, § 388-67-345, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-68**

**CHILD CARE INSTITUTIONS--LICENSING--MINIMUM LICENSING REQUIREMENTS**

388-68-005, 388-68-010, 388-68-020, 388-68-025, 388-68-030, 388-68-035, 388-68-040, 388-68-045, 388-68-050, 388-68-055, 388-68-060, 388-68-065, 388-68-070, 388-68-100, 388-68-150, 388-68-155, 388-68-160, 388-68-165, 388-68-170, 388-68-175, 388-68-180, 388-68-200, 388-68-205, 388-68-250, 388-68-255, 388-68-260, 388-68-265, 388-68-270, 388-68-275, 388-68-280, and 388-68-300. [Order 260, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-68-105, 388-68-210, 388-68-305, 388-68-315, 388-68-320, 388-68-325. [Order 424, filed 1/21/70; Order 260, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-68-110 [Order 424, § 388-68-110, filed 1/21/70.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-68-310 [Order 428, § 388-68-310, filed 3/3/70; Order 260, § 388-68-310, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-68-345 [Order 508, § 388-68-345, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-69**

**CHILD PLACING AGENCIES--LICENSING--MINIMUM REQUIREMENTS**

388-69-005, 388-69-010, 388-69-020, 388-69-025, 388-69-030, 388-69-035, 388-69-040, 388-69-045, 388-69-050, 388-69-055, 388-69-060, 388-69-100, 388-69-105, 388-69-150, 388-69-155, 388-69-160, 388-69-165, 388-69-170, 388-69-175. [Order 261, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-69-185 [Order 509, § 388-69-185, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-89**

**MEDICAL CARE--AGED PERSON IN MENTAL INSTITUTION**

388-89-005 Definitions. [Order 938, § 388-89-005, filed 5/23/74; Order 331, § 388-89-005, filed 1/8/69; Order 264 (part), § 388-89-005, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-010 Initial eligibility. [Order 938, § 388-89-010, filed 5/23/74; Order 435, § 388-89-010, filed 3/31/70; Order 331, § 388-89-010, filed 1/8/69; Order 264 (part), § 388-89-010, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-015 Applicant not receiving grant prior to admission. [Order 331, § 388-89-015, filed 1/8/69; Order 264 (part), § 388-89-015, filed 11/24/67.] Repealed by Order 952, filed 7/16/74.

388-89-020 Person receiving grant prior to admission. [Order 331, § 388-89-020, filed 1/8/69; Order 264 (part), § 388-89-020, filed 11/24/67.] Repealed by Order 952, filed 7/16/74.

388-89-025 Application process. [Order 938, § 388-89-025, filed 5/23/74; Order 331, § 388-89-025, filed 1/8/69; Order 264 (part), § 388-89-025, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-030 Certification of eligibility. [Order 938, § 388-89-030, filed 5/23/74; Order 331, § 388-89-030, filed 1/8/69; Order 264 (part), § 388-89-030, filed 11/24/67.]

Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-035 Certification of eligibility--Effective date of authorization. [Order 938, § 388-89-035, filed 5/23/74; Order 331, § 388-89-035, filed 1/8/69; Order 264 (part), § 388-89-035, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-040 Certification of eligibility--Duration of certification. [Order 938, § 388-89-040, filed 5/23/74; Order 331, § 388-89-040, filed 1/8/69; Order 264 (part), § 388-89-040, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-045 Medical consultant approval for hospitalization or medical care--When required. [Order 938, § 388-89-045, filed 5/23/74; Order 331, § 388-89-045, filed 1/8/69; Order 264 (part), § 388-89-045, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-050 Time-limited visit. [Order 938, § 388-89-050, filed 5/23/74; Order 331, § 388-89-050, filed 1/8/69; Order 264 (part), § 388-89-050, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-055 Department responsibilities for patient/recipient entering psychiatric facility. [Order 938, § 388-89-055, filed 5/23/74; Order 331, § 388-89-055, filed 1/8/69; Order 264 (part), § 388-89-055, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-060 Services to patient/recipient in psychiatric facility. [Order 938, § 388-89-060, filed 5/23/74; Order 331, § 388-89-060, filed 1/8/69; Order 264 (part), § 388-89-060, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-065 Coordination of services for patient/recipient. [Order 938, § 388-89-065, filed 5/23/74; Order 331, § 388-89-065, filed 1/8/69; Order 264 (part), § 388-89-065, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-070 Department responsibilities--Patient/recipient scheduled for release. [Order 938, § 388-89-070, filed 5/23/74; Order 331, § 388-89-070, filed 1/8/69; Order 264 (part), § 388-89-070, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-075 Local office responsibility for social services--Recipient accepted for sixty caseload. [Order 938, § 388-89-075, filed 5/23/74; Order 331, § 388-89-075, filed 1/8/69; Order 264 (part), § 388-89-075, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-080 Payment for care. [Order 938, § 388-89-080, filed 5/23/74; Order 331, § 388-89-080, filed 1/8/69; Order 264 (part), § 388-89-080, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

388-89-085 Caseload administration. [Order 264 (part), § 388-89-085, filed 11/24/67.] Repealed by Order 331, filed 1/8/69.

**Chapter 388-94**

**MEDICAL CARE COST SHARING--MONTHLY PREMIUM IMPOSED--PAYMENT BY CERTAIN RECIPIENTS--FEDERAL AID MEDICAL CARE ONLY--ASSESSMENT OF COST SHARING PREMIUM**

388-94-005 Definitions. [Order 940, § 388-94-005, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.

388-94-010 Description of program. [Order 940, § 388-94-010, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.

388-94-015 Persons obligated to pay premium. [Order 940, § 388-94-015, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.

388-94-020 Cost-sharing premium--Standard for computing. [Order 940, § 388-94-020, filed 6/10/74.] Repealed



- by Order 977, filed 10/28/74 before publication in the WAC.
- 388-94-025 Cost-sharing premium—Payment—Notice of amount due. [Order 940, § 388-94-025, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.
- 388-94-030 Local office responsibility. [Order 940, § 388-94-030, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.
- 388-94-035 Penalty for nonpayment of premium. [Order 940, § 388-94-035, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.

**Chapter 388-104****PERSONNEL**

- 388-104-100 Dismissal for cause. [Regulation 388-104-04 (Exhibit C), filed 10/31/63; Regulation 388-104-04, filed 11/15/62.] Repealed by Order 626, filed 11/11/71.

**Chapter 388-07 WAC****ABBREVIATIONS****WAC**

- 388-07-005 Abbreviations.

**WAC 388-07-005 Abbreviations.**

- AB Aid to the blind
- AFDC Aid to families with dependent children
- AFDC-E Aid to families with dependent children—Employable
- AFDC-FC Aid to families with dependent children—Foster Care
- AFDC-R Aid to families with dependent children—Regular
- A/R Applicant or recipient
- ATP Authority to purchase
- CFR Code of federal regulations
- CETA Comprehensive employment and training act
- Ch Chapter
- CO County office (now local office)
- CWS Child welfare services
- DA Disability assistance
- DHEW Department of health, education and welfare
- DPU Data processing unit
- DSHS Department of social and health services
- DVR Division of vocational rehabilitation
- ECF Extended care facility
- EPSDT Early and periodic screening, diagnosis and treatment
- FAMCO Federal aid medical care only
- FICA Federal insurance contributions act
- FNS Food and nutrition service
- GA General assistance
- GAE General assistance—Employable
- GAN General assistance—Non—continuing
- GAU General assistance—unemployable
- ICF Intermediate care facility
- INS Immigration and naturalization service
- JCAH Joint committee on accreditation of hospitals
- LO Local office (formerly county office)

- MA Medical assistance
- MDTA Manpower development and training act
- MHSR Mental health service representative
- MO Medical only
- MS Medical care services
- OAA Old age assistance
- OASDI Old age, survivors, and disability insurance
- OPHS Office of personal health services
- PAS Professional activity study
- RCW Revised code of Washington
- RR Railroad retirement
- RSDI Retirement survivors and disability insurance
- SCAN State controlled area network
- SECS Support enforcement and collections section
- SECU Support enforcement and collections unit
- SES State employment service
- SMIB Supplemental medical insurance benefit
- SNF Skilled nursing facility
- SNH Skilled nursing home
- SO State office of department of social and health services
- SSA Social security administration
- SSI Supplemental security income
- UC Unemployment compensation
- US United States
- USDHEW United States department of health, education, and welfare
- VA Veterans administration
- WAC Washington administrative code
- WIC Women, infants and children
- WIN Work incentive program
- WSES Washington state employment services

[Order 1044, § 388-07-005, filed 8/14/75; Order 615, § 388-07-005, filed 10/7/71; Order 523, § 388-07-005, filed 3/31/71, effective 5/1/71.]

**Chapter 388-08 WAC****PRACTICE AND PROCEDURE—FAIR HEARING****WAC**

- 388-08-00101 Fair hearing—Definitions.
- 388-08-002 Fair hearing—Statutory basis.
- 388-08-006 Fair hearing—Form of request.
- 388-08-00601 Fair hearing—Group hearing.
- 388-08-007 Fair hearing—Access to records.
- 388-08-010 Fair hearing—Appearance and practice before department—Who may appear.
- 388-08-050 Fair hearing—Appearance by former employee of department.
- 388-08-055 Fair hearing—Attendance at hearing—Reporting.
- 388-08-080 Notice and opportunity for hearing.
- 388-08-083 Notice and opportunity for hearing—Computation of time.
- 388-08-150 Subpoenas—Where provided by law—Form.
- 388-08-160 Subpoenas—Issuance to parties—Issuance to department.
- 388-08-170 Subpoenas—Service.
- 388-08-180 Subpoenas—Fees.
- 388-08-190 Subpoenas—Proof of service.
- 388-08-200 Subpoenas—Quashing.
- 388-08-210 Subpoenas—Enforcement.

388-08-220	Subpoenas—Geographical scope.
388-08-230	Depositions and interrogatories.
388-08-235	Questionnaires—Petitioner or witness out of state.
388-08-375	Official notice—Matters of law—Material facts.
388-08-390	Presumptions.
388-08-400	Stipulations and admissions of record.
388-08-405	Withdrawal—Dismissal—Settlement.
388-08-410	Form and content of decision.
388-08-420	Definition of issues before hearing.
388-08-430	Pre-hearing conference rule—Authorized.
388-08-440	Pre-hearing conference rule—Record of conference action.
388-08-450	Submission of documentary evidence in advance.
388-08-470	Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses.
388-08-480	Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements.
388-08-490	Expert or opinion testimony and testimony based on economic and statistical data—Supporting data.
388-08-500	Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance.
388-08-503	Expert opinion or written testimony—Medical assessment.
388-08-510	Continuances.
388-08-520	Rules of evidence—Admissibility criteria.
388-08-540	Petitions for rule making amendment or repeal—Who may petition.
388-08-580	Declaratory rulings.
388-08-590	Forms.
388-08-600	Judicial review.
388-08-610	Publication of fair hearing decisions.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-08-001	Complaint. [Regulation 23.10, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-003	Prerequisites. [Regulation 23.21, filed 10/13/66, effective 11/13/66; Regulation 23.21, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-004	County office organization for fair hearing. [Regulation 23.22, filed 10/13/66, effective 11/13/66; Regulation 23.30, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-005	County office responsibility. [Order 265, § 388-08-005, filed 12/5/67; Regulation 23.23, filed 10/13/66, effective 11/13/66; Regulation 23.51, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-015	Attendance at hearing—Procedure. [Regulation 23.39, filed 10/13/66, effective 11/13/66.] Repealed by Order 286, filed 4/1/68.
388-08-411	Decision by state department of public assistance director. [Regulation 23.50, filed 6/16/67; Regulation 23.50, filed 10/13/66, effective 11/13/66; Regulation 23.70, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-412	Procedure following decision. [Order 265, § 388-08-412, filed 12/5/67; Regulation 23.60, filed 10/13/66, effective 11/13/66; Regulation 23.80, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-455	Rules of evidence. [Regulation 23.41, filed 10/13/66, effective 11/13/66; Regulation 23.64, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-600	Court appeal. [Order 265, § 388-08-600, filed 12/5/67; Regulation 23.70, filed 10/13/66, effective 11/13/66; Regulation 23.90, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.

#### WAC 388-08-00101 Fair hearing—Definitions.

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

(2) "Fair hearing" means an administrative proceeding by which the department hears and decides the appeal of an applicant or recipient provided for in RCW 74.08.070.

(3) "Hearing examiner" or "hearing officer" means the departmental employee designated by the secretary to conduct fair hearings according to chapter 388-08 WAC.

(4) "Secretary" means the executive head of the department or his designee. [Order 768, § 388-08-00101, filed 1/10/73.]

#### WAC 388-08-002 Fair hearing—Statutory basis.

(1) The right to a fair hearing established by RCW 74.08.070 applies to all applicants for or recipients of benefits, assistance and/or services authorized by Title 74 RCW.

(2) The right to a fair hearing may be exercised by an individual feeling himself aggrieved by lack of a reasonably prompt decision or a decision of the department or its local office in respect to his claim for assistance or service authorized by Title 74 RCW, or aggrieved by department policy as it affects his situation.

(3) A comparable right is established by RCW 74.15.130 for any child welfare agency (legally defined as including a foster home) which believes its application for a license was improperly denied or whose license was suspended, revoked, or not renewed.

(4) In the absence of a superior court order or final decree of divorce the right to a fair hearing is provided by RCW 74.20A.050 for any individual alleging defenses to liability for debts accrued and/or accruing for child support based on public assistance paid to or for dependent children, as established by the notice of the secretary pursuant to chapter 74.20A RCW. [Order 768, § 388-08-002, filed 1/10/73; Order 524, § 388-08-002, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-002, filed 4/1/68; Regulation 23.20, filed 10/13/66, effective 11/13/66; Regulation 23.20, filed 1/24/64.]

#### WAC 388-08-006 Fair hearing—Form of request.

Any person or person[s] acting for him entitled to and desiring a fair hearing under RCW 74.08.070 shall within time limits provided by law, make an oral or written request for hearing with the secretary of the department. The request need not be in any particular form but should specify the decision with which the petitioner is dissatisfied and the date he was notified by the local office. The request, if oral, should be confirmed in writing within fifteen days and shall be signed by the petitioner, or his legal guardian, attorney, or other person acting for him. The day the oral request is made, however, is the day of the act or event for computation of time purposes as prescribed in WAC 388-08-083. [Order 768, § 388-08-006, filed 1/10/73; Order 524, § 388-08-006, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-006, filed 4/1/68; Regulation 23.31, filed 10/13/66, effective 11/13/66; Regulation 23.40, filed 1/24/64.]

#### WAC 388-08-00601 Fair hearing—Group hearing.

(1) When more than one individual requests a fair

hearing to protest department policy, the department may hold a group hearing with the agreement of the individuals and shall hold such group hearing upon request of the individuals.

(2) If a group hearing is held, each individual retains his right to representation. An appellant scheduled for a group hearing may withdraw from a group hearing in favor of an individual hearing. [Order 768, § 388-08-00601, filed 1/10/73.]

**WAC 388-08-007 Fair hearing—Access to records.** After filing a request for a fair hearing under RCW 74.08.070, a petitioner, or attorney for petitioner with written authorization, or other designated representative of petitioner with written authorization, shall have the right of access to, and adequate opportunity to examine any files and records of the department in a case on appeal at a reasonable time before the date of the hearing as well as during the hearing. This right shall also extend to evidence secured through the provisions of WAC 388-08-230, 388-08-235, and 388-08-450. The examination if prior to the hearing shall be conducted in an office of the department and an employee of the department shall be present at the time and place of examination. [Order 768, § 388-08-007, filed 1/10/73; Order 524, § 388-08-007, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-007, filed 4/1/68; Regulation 23-33, filed 6/16/67; Regulation 23.33, filed 10/13/66, effective 11/13/66; Regulation 23.52, filed 1/24/64.]

**WAC 388-08-010 Fair hearing—Appearance and practice before department—Who may appear.** The appellant in a fair hearing under RCW 74.08.070 shall be afforded the opportunity of presenting his case by himself and may be represented by legal counsel or by a relative, friend, or other spokesman, but shall not be represented at such hearing by an employee of the department. Nothing in this regulation shall be construed as prohibiting an employee of the department from acting as a witness on behalf of an appellant, nor from referring such an appellant to legal resources in the community, assisting the appellant in obtaining nonconfidential information available to the appellant, or from advising the appellant as to possible arguments which can be made against the ruling being appealed. [Order 952, § 388-08-010, filed 7/16/74; Order 768, § 388-08-010, filed 1/10/73; Order 524, § 388-08-010, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-010, filed 4/1/68; Regulation 23.32, filed 6/16/67; Regulation 23.32, filed 10/13/66, effective 11/13/66; Regulation 23.63, filed 1/24/64.]

**WAC 388-08-050 Fair hearing—Appearance by former employee of department.** A former employee of the department shall not at any time after severing his employment with the department appear, except with the written permission of the secretary, as a representative or an expert witness in behalf of a petitioner in a matter in which he previously took an active part as a representative of the department. [Order 768, § 388-08-050, filed 1/10/73; Order 524, § 388-08-050, filed

3/31/71, effective 5/1/71; Order 284, § 388-08-050, filed 4/1/68.]

**WAC 388-08-055 Fair hearing—Attendance at hearing—Reporting.** (1) Attendance at a fair hearing under RCW 74.08.070 shall be limited to parties directly concerned. The hearing examiner may exclude unauthorized persons unless the principals agree to their presence.

(2) The hearing shall be recorded manually or by a mechanical, electronic or other device capable of transcription. [Order 768, § 388-08-055, filed 1/10/73; Order 524, § 388-08-055, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-055, filed 4/1/68.]

**WAC 388-08-080 Notice and opportunity for hearing.** (1) A hearing under RCW 74.08.070 shall be held in the county in which the appellant resides. The department shall notify the appellant, his attorney, or other designated representative, of the date, time and place of the hearing at least twenty days prior to the date thereof by first class mail, registered mail, or personal service of a written notice upon appellant or his representative. However, if the date, time or place of the hearing is not convenient to appellant he shall be afforded the opportunity of requesting a different date, time or place. Such request shall be granted upon a showing of due cause.

(2) The hearing shall be conducted by an impartial duly qualified hearing examiner appointed by the secretary for such purpose who was not previously involved in any way with the action in question. [Order 768, § 388-08-080, filed 1/10/73; Order 524, § 388-08-080, filed 3/31/71, effective 5/1/71; Order 374, § 388-08-080, filed 8/7/69; Order 284, § 388-08-080, filed 4/1/68; Regulation 23.34, filed 6/16/67; Regulation 23.34, filed 10/13/66, effective 11/13/66; Regulation 23.53, filed 1/24/64.]

**WAC 388-08-083 Notice and opportunity for hearing—Computation of time.** (1) In those instances in which the computation of time is not specified in Title 388 WAC the rule in subsection (2) shall apply.

(2) In computing any period of time prescribed or allowed by any applicable statute the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. [Order 768, § 388-08-083, filed 1/10/73; Order 524, § 388-08-083, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-083, filed 4/1/68.]

**WAC 388-08-150 Subpoenas—Where provided by law—Form.** Every subpoena shall state the name of the department and the title of the proceeding, and shall command the person to whom it is directed to attend

and give testimony or produce designated books, documents or things under his control at a specified time and place. [Order 768, § 388-08-150, filed 1/10/73; Order 524, § 388-08-150, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-150, filed 4/1/68; Regulation 23.35, filed 10/13/66, effective 11/13/66.]

**WAC 388-08-160 Subpoenas—Issuance to parties—Issuance by department.** (1) Upon application of any party to a contested case, fair hearing or license hearing, there shall be issued to such parties, subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding upon a showing of general relevance and reasonable scope of the testimony or evidence sought. Such subpoenas may be issued with like effect by the attorney of record of the party in whose behalf such witness is required to appear and the form of such subpoena in each case may be the same as when issued by the department except that it shall only be subscribed by the signature of such attorney.

(2) In any contested case, fair hearing, license hearing or hearing to determine the necessity or desirability of adopting, amending, repealing or otherwise revising a rule or proposed rule (RCW 34.04.105(1)) the department may issue a subpoena on its own motion. [Order 524, § 388-08-160, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-160, filed 4/1/68.]

**WAC 388-08-170 Subpoenas—Service.** Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person according to law. [Order 524, § 388-08-170, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-170, filed 4/1/68.]

**WAC 388-08-180 Subpoenas—Fees.** Witnesses summoned before the department shall be paid by the party at whose instance they appear the same fees and allowances in the same manner and under the same conditions as provided for witnesses in the superior courts of the state of Washington. [Order 768, § 388-08-180, filed 1/10/73; Order 524, § 388-08-180, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-180, filed 4/1/68.]

**WAC 388-08-190 Subpoenas—Proof of service.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the department or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the department and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service. [Order 524, § 388-08-190, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-190, filed 4/1/68.]

**WAC 388-08-200 Subpoenas—Quashing.** Upon motion made promptly and in any event at or before the time specified in the subpoena for compliance by the

person to whom the subpoena is directed and upon notice to the party to whom the subpoena was issued, the department or its authorized member or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions. [Order 524, § 388-08-200, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-200, filed 4/1/68.]

**WAC 388-08-210 Subpoenas—Enforcement.** Upon application and for good cause shown, the department will seek judicial enforcement of subpoenas issued to parties and which have not been quashed. [Order 524, § 388-08-210, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-210, filed 4/1/68.]

**WAC 388-08-220 Subpoenas—Geographical scope.** Said attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing. [Order 524, § 388-08-220, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-220, filed 4/1/68.]

**WAC 388-08-230 Depositions and interrogatories.** (1) When deemed expeditious, the department or the hearing examiner may take, or cause to be taken, depositions and interrogatories for use as evidence in any hearing.

(2) Unless otherwise ordered, the deponent may be examined regarding any matter not privileged or confidential which is relevant to the subject matter involved in the proceeding.

(3) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than five days in writing to the department's examiner and all parties. The notice shall state the time and place for taking the deposition, and the name and address of each person to be examined. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

(4) After notice is served for taking a deposition, upon its own action or upon motion reasonably made by any party or by the person to be examined and for good cause shown, the department or its designated hearing examiner may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and counsel. [Order 768, § 388-08-230, filed 1/10/73; Order 524, § 388-08-230, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-230, filed 4/1/68; Regulation 23.36, filed 10/13/66, effective 11/13/66.]

**WAC 388-08-235 Questionnaires—Petitioner or witness out of state.** (1) The testimony of petitioner or other witness who is outside the state of Washington

may be secured by written questionnaires answered under oath. The principals shall be given an opportunity to propose questions, to rebut the answers, and to submit evidence in addition to that contained in the questionnaires.

(2) The submission of a completed questionnaire by a petitioner who is outside the state shall constitute an appearance by said petitioner. [Order 524, § 388-08-235, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-235, filed 4/1/68; Regulation 23.44, filed 10/13/66, effective 11/13/66.]

**WAC 388-08-375 Official notice—Matters of law—Material facts.** The department's hearing examiner, upon request, will officially notice:

(1) Federal law. The constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register.

(2) State law. The constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) Agency organization. Organization, administration, officers, personnel, official publications of the secretary of the department and practitioners before its bar.

(4) Material facts. In the absence of controverting evidence, the department and its hearing examiner, upon request made during a hearing, may officially notice:

(a) General customs and practices followed in the transaction of business,

(b) Facts generally and widely known to all informed persons as not to be subject to reasonable dispute,

(c) Matters within the technical knowledge of the department as a body of experts, within the scope of its duties, responsibilities, or jurisdiction,

(d) Any party may request or the hearing examiner may suggest that official notice be taken of a material fact which shall be clearly and precisely stated. [Order 768, § 388-08-375, filed 1/10/73; Order 524, § 388-08-375, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-375, filed 4/1/68; Regulation 23.42, filed 10/13/66, effective 11/13/66.]

**WAC 388-08-390 Presumptions.** The secretary, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) Identity. That persons and objects of the same name and description are identical.

(2) Delivery. That mail matter, communications, properly addressed, marked, and delivered respectively to the post office or authorized common carrier with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business.

(3) Acceptance of benefit. That a person for whom an act is done or to whom a transfer is made has, does or

will accept same where it is clearly in his own self-interest so to do. [Order 768, § 388-08-390, filed 1/10/73; Order 524, § 388-08-390, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-390, filed 4/1/68; Regulation 23.43, filed 10/13/66, effective 11/13/66.]

**WAC 388-08-400 Stipulations and admissions of record.** The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received, upon behalf of such party, provided:

(1) Upon whom binding. Such a stipulation or admission is binding upon the parties by whom it is made, and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof.

(2) Withdrawal. Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing examiner that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding. [Order 768, § 388-08-400, filed 1/10/73; Order 524, § 388-08-400, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-400, filed 4/1/68.]

**WAC 388-08-405 Withdrawal—Dismissal—Settlement.** (1) A petitioner in a fair hearing, contested case, or license hearing shall have the right to withdraw at any time prior to the decision by filing a written notice with the department or its hearing officer.

(2) If after receiving a notice of a hearing, a petitioner, his attorney or other designated representative fails to appear and does not respond within fifteen days to a letter of inquiry, the hearing request shall be considered abandoned.

(3) An appeal may be concluded by a written stipulated settlement entered into by the appellant with the department. [Order 768, § 388-08-405, filed 1/10/73; Order 524, § 388-08-405, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-405, filed 4/1/68; Regulation 23.38, filed 10/13/66, effective 11/13/66.]

**WAC 388-08-410 Form and content of decision.** (1) The secretary shall render his decision without participation of any person who participated in the appealed decision.

(2) The secretary shall notify the petitioner, his counsel or designated representative of his decision within the time prescribed by law or at least no more than sixty days after notice of appeal unless the hearing was continued or delayed at the petitioner's request. In cases where assistance was not continued, any payment due an appellant as a result of the decision shall also be made within sixty days.

(3) The decision of the secretary shall be final on all parties unless appealed to the courts as provided by law.

(4) Every decision and order shall be in writing and  
 (a) Be correctly captioned as to the name of the department, and the name of the proceeding,

(b) Designate all parties,

(c) Include the concise statement of the issues to be considered,

(d) Contain appropriate findings and conclusions of law.

(4) The effective date of the secretary's decision reversing the local office is the date of the incorrect action or such earlier date as may be provided under department rules except that the effective date for an appeal in the food distribution or food stamp program shall be as specified in rules of the food and nutrition service, U.S. department of agriculture.

(5) The secretary's decision shall receive immediate attention and processing by the local office. [Order 768, § 388-08-410, filed 1/10/73; Order 524, § 388-08-410, filed 3/31/71, effective 5/1/71; Order 514, § 388-08-410, filed 1/20/71; Order 374, § 388-08-410, filed 8/7/69; Order 317, § 388-08-410, filed 11/27/68; Order 284, § 388-08-410, filed 4/1/68; Regulation 23.51, filed 10/13/66, effective 11/13/66; Regulation 23.70, filed 1/24/64.]

**WAC 388-08-420 Definition of issues before hearing.** In all department hearings the issues to be considered shall be made initially as clear as possible so that the hearing officer may proceed promptly to conduct the hearing on relevant and material matter only. [Order 524, § 388-08-420, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-420, filed 4/1/68.]

**WAC 388-08-430 Pre-hearing conference rule—Authorized.** In any hearing the department or its hearing officer, on its or his own motion, or upon the motion of the petitioner or his attorney of record, may direct the parties or their qualified representatives to appear at a specified time and place to consider:

(1) Simplification of the issues

(2) The possibility of obtaining stipulations, admission of facts and of documents

(3) The limitation of expert witnesses

(4) Such other matters as may aid in disposition of the proceeding. [Order 524, § 388-08-430, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-430, filed 4/1/68; Regulation 23.40, filed 10/13/66, effective 11/13/66.]

**WAC 388-08-440 Pre-hearing conference rule—Record of conference action.** The department hearing officer shall prepare a statement which recites the action taken at the conference including the settlement or simplification of issues and such statement shall control the subsequent course of the hearing. [Order 524, § 388-08-440, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-440, filed 4/1/68.]

**WAC 388-08-450 Submission of documentary evidence in advance.** Where practicable the department or its designated hearing officer may require:

(1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(2) That documentary evidence not submitted in advance, as may be required by subsection (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(3) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection. [Order 524, § 388-08-450, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-450, filed 4/1/68.]

**WAC 388-08-470 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses.** The hearing examiner or other appropriate officer in all classes of cases where practicable shall make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications. [Order 524, § 388-08-470, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-470, filed 4/1/68.]

**WAC 388-08-480 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements.** The hearing examiner or other appropriate officer, in all cases in which it is practicable, may require that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses. [Order 524, § 388-08-480, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-480, filed 4/1/68.]

**WAC 388-08-490 Expert or opinion testimony and testimony based on economic and statistical data—Supporting data.** The hearing examiner or other appropriate officer, in his discretion but consistent with the rights of the parties, shall cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with WAC 388-08-480, but, wherever practicable, that he restrict to a minimum the placing of such data in the record. [Order 524, § 388-08-490, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-490, filed 4/1/68.]

**WAC 388-08-500 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance.** Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirements fixed under the provisions of WAC 388-08-470 or 388-08-480, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements. [Order 524, § 388-08-500, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-500, filed 4/1/68.]

**WAC 388-08-503 Expert opinion or written testimony—Medical assessment.** In a hearing involving medical issues and only when the hearing examiner or the appellant considers a medical assessment other than that of the person making the original decision to be necessary, it will be obtained at department expense from a medical source satisfactory to the appellant. The assessment of such medical authority shall be reported in writing or by personal testimony as an expert witness and made a part of the record only when the appellant or hearing examiner considers it necessary. [Order 768, § 388-08-503, filed 1/10/73; Order 524, § 388-08-503, filed 3/31/71, effective 5/1/71; Order 317, § 388-08-503, filed 11/27/68.]

**WAC 388-08-510 Continuances.** Any party who desires a continuance shall immediately, upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the department or its designated hearing examiner stating the reasons such continuance is necessary. For good cause shown, the department may grant such continuance upon its own motion. During the hearing, if it appears in the interest of justice that further testimony or argument should be received, the hearing examiner conducting the hearing may with the assent of the appellant, continue the hearing and fix the date for introduction of additional evidence or presentation of argument. If requested by the department, the continuance must be assented to by the appellant. [Order 768, § 388-08-510, filed 1/10/73; Order 524, § 388-08-510, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-510, filed 4/1/68; Regulation 23.37, filed 10/13/66, effective 11/13/66.]

**WAC 388-08-520 Rules of evidence—Admissibility criteria.** (1) All relevant and material evidence is admissible which, in the opinion of the hearing examiner, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the examiner conducting the hearing shall give consideration to, but shall not be bound to follow, rules of evidence governing civil proceedings.

(2) When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The hearing examiner may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise ground of objection at the time evidence is offered.

(3) All evidence material to the issues raised in the fair hearing shall be offered into evidence. All evidence forming the basis of the department's decision in a matter shall, subject to subsection (1), be offered into evidence.

(4) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.

(5) Documentary evidence may be received in the form of copies and excerpts or incorporation by reference. [Order 768, § 388-08-520, filed 1/10/73; Order 524, § 388-08-520, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-520, filed 4/1/68.]

**WAC 388-08-540 Petitions for rule making amendment or repeal—Who may petition.** (1) Any interested person may petition the department requesting the promulgation, amendment, or repeal of any rule.

(2) When the petition requests a promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with the briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as the suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

(3) All petitions shall be considered by the department. The department may, at its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal or modification of any rule.

(4) Within thirty days after the submission of a petition, the department shall formally consider the petition and shall within thirty days thereafter either deny the petition in writing stating the reasons for the denial or initiate rule making proceedings in accordance with chapter 34.04 RCW. [Order 768, § 388-08-540, filed 1/10/73; Order 524, § 388-08-540, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-540, filed 4/1/68.]

**WAC 388-08-580 Declaratory rulings.** (1) As provided by RCW 34.04.080 any interested person may petition the department for a declaratory ruling. The

department shall consider the petition and within a reasonable time the department shall:

- (a) Issue a nonbinding declaratory ruling, or
- (b) Notify the person that no declaratory ruling is to be issued, or
- (c) Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.

(2) If a hearing as provided in subsection (1)(c) is conducted, the department shall within a reasonable time:

- (a) Issue a binding declaratory ruling, or
- (b) Issue a nonbinding declaratory ruling, or
- (c) Notify the person that no declaratory ruling is to be issued. [Order 524, § 388-08-580, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-580, filed 4/1/68.]

**WAC 388-08-590 Forms.** (1) Any interested person petitioning the department for a declaratory ruling pursuant to RCW 34.04.080 shall generally adhere to the following form for such purpose.

(a) At the top of the page shall appear the wording "Before the State Department of Social and Health Services". On the left side of page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for a Declaratory Ruling". Opposite the foregoing caption shall appear the word "Petition".

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(c) The original and two legible copies shall be filed with the department. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

(2) Any interested person petitioning the department requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose:

(a) At the top of the page shall appear the wording "Before the State Department of Social and Health Services". On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of Rule (or Rules)". Opposite the foregoing caption shall appear the word "Petition".

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or

amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(c) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the department. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size. [Order 768, § 388-08-590, filed 1/10/73; Order 524, § 388-08-590, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-590, filed 4/1/68.]

**WAC 388-08-600 Judicial review.** (1) Any appellant in a fair hearing who feels himself aggrieved by the decision of the secretary has the right to judicial review as provided by law. Written notice of such right and the method by which such review is available shall be attached to the decision.

(2) A transcript of the fair hearing, together with all pleadings, motions, intermediate rulings; evidence received or considered; statement of matters officially noticed; questions and offers of proof, objections, and rulings thereon; proposed findings and exceptions; any decision, opinion, or report by the officer presiding at the hearing shall be furnished by the department upon request of the appellant. [Order 768, § 388-08-600, filed 1/10/73; Order 524, § 388-08-600, filed 3/31/71, effective 5/1/71; Order 317, § 388-08-600, filed 11/27/68.]

**WAC 388-08-610 Publication of fair hearing decisions.** The department shall publish, in summary form, all fair hearing decisions. Summaries of all decisions shall be distributed to each local office of the department where they shall be made accessible to appellants, their representatives, and to the public. Summaries shall contain no identifying information pursuant to provisions relating to the safeguarding of public assistance information. [Order 524, § 388-08-610, filed 3/31/71, effective 5/1/71; Order 317, § 388-08-610, filed 11/27/68.]

**Chapter 388-09 WAC**  
**PRACTICE AND PROCEDURE—**  
**ADMINISTRATIVE HEARING—CHILD**  
**WELFARE AGENCY**

WAC	
388-09-010	Administrative hearing—Child welfare agency—Denial, suspension, revocation or nonrenewal of license.
388-09-020	Administrative hearing—Applicability of chapter 388-08 WAC.
388-09-030	Administrative hearing—Appearance and practice before department—Who may appear.



**WAC 388-09-010 Administrative hearing—Child welfare agency—Denial, suspension, revocation or nonrenewal of license.** (1) Whenever the director shall have reasonable cause to believe that in the administration of chapter 74.15 RCW grounds exist for the denial, suspension or revocation of a license or that a licensee has failed to qualify for renewal of a license he shall notify the licensee in writing by certified mail, stating the grounds upon which it is proposed that the license be denied, suspended, revoked or not renewed.

(2) Within thirty days from the receipt of notice of the grounds for denial, suspension, revocation or lack of renewal, the licensee may serve upon the director a written request for hearing. Service of a request for hearing shall be made by certified mail. Upon receiving a request for hearing, the director shall fix a date upon which the matter may be heard, which date shall be not less than thirty-five days from the receipt of the request for hearing and he shall also notify the child welfare and day care advisory committee not less than twenty-five days before the hearing date. If no request for hearing is made within the time specified, the license shall be deemed denied, suspended or revoked. [Order 525, § 388-09-010, filed 3/31/71, effective 5/1/71; Order 285, § 388-09-010, filed 4/1/68.]

**WAC 388-09-020 Administrative hearing—Applicability of chapter 388-08.** In a hearing under WAC 388-09-010, 388-08-083 through 388-08-590 shall apply. [Order 525, § 388-09-020, filed 3/31/71, effective 5/1/71; Order 285, § 388-09-020, filed 4/1/68.]

**WAC 388-09-030 Administrative hearing—Appearance and practice before department—Who may appear.** In a hearing under WAC 388-09-010 only the following may appear in a representative capacity:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

(3) A bona fide officer, partner, or full time employee of an individual firm, association, partnership or corporation who appears for such individual firm, association, partnership or corporation. [Order 525, § 388-09-030, filed 3/31/71, effective 5/1/71; Order 285, § 388-09-030, filed 4/1/68.]

- 388-11-040 Service of notice and finding of financial responsibility.
- 388-11-050 Failure to make request for hearing.
- 388-11-060 Request for hearing.
- 388-11-065 Responsible parent to show cause—Affirmative defenses—Burden of proof.
- 388-11-070 Continuance of cases.
- 388-11-080 Requests for admission.
- 388-11-090 Hearing examiner.
- 388-11-100 Duty of hearing examiner.
- 388-11-110 Determination of future liability.
- 388-11-120 Default.
- 388-11-130 Decision and order after hearing.
- 388-11-140 Modification.
- 388-11-150 Consent order.
- 388-11-160 Procedure for reconsideration of decision, clarification of decision or for rehearing.
- 388-11-170 Collection of debts determined.
- 388-11-180 Procedural reference.
- 388-11-185 Discovery.
- 388-11-190 Scale of minimum contributions.

**WAC 388-11-010 Statutory basis.** RCW 74.20A.055 is the administrative process for determination of or establishment of support obligations when there is no superior court order. These provisions contain the exclusive administrative method to be used when there is an absence of a superior court order in cases where a notice and finding of financial responsibility has been served by the office of support enforcement or their agent on the responsible parent. Action based on chapter 74.20A RCW may not be based on agreements. The notice and finding of financial responsibility may be served only for a support debt or responsibility to support accrued and/or to be established under RCW 74.20A.030, RCW 74.20.292, or RCW 26.16.205 and/or RCW 74.20A.250 relating to a period of time when a superior court order did not exist, specifically including cases eligible for nonassistance support enforcement services under WAC 388-14-302. [Order 1054, § 388-11-010, filed 9/25/75; Order 875, § 388-11-010, filed 11/16/73.]

**WAC 388-11-015 Legal basis—Debt on public assistance cases.** In the absence of a superior court order for support, RCW 74.20.292, RCW 74.20A.030, RCW 74.20A.250 and RCW 74.20A.055, and this chapter establish a debtor/creditor relationship between the department of social and health services and the responsible parent of a child or children when the department has provided public assistance monies for necessary food, clothing, shelter, medical attendance for said child(ren) and for the child(ren)'s caretaker/custodian. This debt obligation is created by statute in favor of the department. After a notice and finding of financial responsibility has been served on the responsible parent, satisfaction in whole or in part of this debt may be obtained only by cash payments through the office of support enforcement. After service of said notice, any direct providing of in-kind non-cash, non-negotiable items or services, including payments to vendors or other third parties of items included in the public assistance standards, are conclusively presumed to be gifts and may not be credited against the debt. Family necessities provided direct to the caretaker/custodian, or children, or provided through vendors or third parties,

**Chapter 388-11 WAC**

**CHILD SUPPORT—ESTABLISHMENT OF OBLIGATIONS IN ABSENCE OF COURT ORDER**

- WAC 388-11-010 Statutory basis.
- 388-11-015 Legal basis—Debt on public assistance cases.
- 388-11-020 Original determinations.
- 388-11-030 Notice and finding of financial responsibility.

may be credited against the debt only if they are provided prior to service of the notice and finding of financial responsibility on the responsible parent pursuant to WAC 388-11-040. To obtain such credit the responsible parent has the burden of proving by a preponderance of the evidence that such items provided were, at that time, intended to satisfy, in whole or in part, the common law or statutory obligation of said responsible parent; Provided, no credit may be given for items not provided for or included in the basic public assistance standards. Provided, further, that shelter payments made may not be credited against any debt for any period determined under these rules in an amount greater than the shelter allocation in the public assistance standards for the same period or one-half of the actual shelter payment made, whichever is the lesser. Any credit given shall be classified as a payment of child support and shall be treated consistent with rules of eligibility in effect as of the time of the payment. After assignment has been made pursuant to WAC 388-24-108 any support payments made subsequent to assignment shall be treated pursuant to WAC 388-14-210. [Order 1054, § 388-11-015, filed 9/25/75.]

**WAC 388-11-020 Original determinations.** The office of support enforcement, on behalf of the department, in making its original determination as to the support debt owed under RCW 74.20A.030, RCW 74.20.292, RCW 26.16.205 and/or RCW 74.20A.250 shall, in cases where there is no superior court order, consider the standards promulgated pursuant to RCW 74.20.270 and any standards for the determination of support payments used by the superior court of the county of residence of the responsible parent to determine the amount of support money which the responsible parent owes. The original determination may be made by allegation of ability to pay based on the best information available, said information to be attached to and served with the notice and finding of financial responsibility. [Order 1054, § 388-11-020, filed 9/25/75; Order 875, § 388-11-020, filed 11/16/73.]

**WAC 388-11-030 Notice and finding of financial responsibility.** (1) The notice and finding of financial responsibility shall set forth the original determination of the office of support enforcement, of the amount the responsible parent owes as an accrued debt because public assistance has been paid in the past, and a statement of the demand for payment thereon and/or the original determination of the office of support enforcement of the amount the responsible parent should pay in the future as periodic future support payment up to a ceiling of the amount of public assistance that has been paid or is being paid, unless action is also being taken pursuant to RCW 74.20.040.

(2) The notice and finding of financial responsibility shall also include:

(a) A statement of the name of the recipient or custodian;

(b) The name of the child or children for whom assistance has been or is being paid or on whose behalf need is alleged;

(c) A statement that if the responsible parent objects to all or any part of the notice and finding of financial responsibility that (s)he shall have a right for not more than twenty days from date of service for a hearing to show cause why said responsible parent should not be determined to be liable for any or all of the debt, past and future, determined, and the amount to be paid thereon;

(d) A statement that said objection shall be communicated in writing and shall be served on the district field office of the office of support enforcement issuing the notice and finding of financial responsibility;

(e) A statement that if the responsible parent fails to object in writing that the support debt and/or payments stated in the notice and finding of financial responsibility shall be assessed and determined in accordance with the original determination of the department as set forth in the notice and finding of financial responsibility;

(f) A statement that the support debt as assessed and determined is subject to collection action and that the property of the debtor, without further advance notice or hearing, is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt. [Order 1054, § 388-11-030, filed 9/25/75; Order 875, § 388-11-030, filed 11/16/73.]

**WAC 388-11-040 Service of notice and finding of financial responsibility.** The notice and finding of financial responsibility shall be served on the responsible parent by the office of support enforcement or their agent in the manner prescribed for the service of a summons in a civil action. [Order 1054, § 388-11-040, filed 9/25/75; Order 875, § 388-11-040, filed 11/16/73.]

**WAC 388-11-050 Failure to make request for hearing.** If the responsible parent fails to object to the original determinations of the office of support enforcement, such determinations as stated in the notice and finding of financial responsibility shall become final. The debt, as stated, together with the amount to be paid thereon each month, if stated, and/or the future periodic support payments to prospectively satisfy liability under RCW 74.20A.030 or RCW 26.16.205, and/or RCW 74.20A.250 shall be subject to collection action. Prospective modification pursuant to WAC 388-11-140 may be ordered as to that portion of the original determination for periodic future support payments. It shall not be necessary for the responsible parent to show material change of circumstances if prospective modification is sought as to an original determination for periodic future support payments which determination was made by allegation of ability to pay based on the best information available. [Order 1054, § 388-11-050, filed 9/25/75; Order 875, § 388-11-050, filed 11/16/73.]

**WAC 388-11-060 Request for hearing.** Any responsible parent who objects to all or any part of the notice and finding of financial responsibility shall have the right for not more than twenty days from the date of service of said notice and finding of financial responsibility to request in writing a hearing which request shall be served upon the office of support enforcement by

registered or certified mail or personally. A request for hearing pursuant to this section shall not be construed to be or considered as a general denial of requests for admission pursuant to WAC 388-11-080. The execution of the notice and finding of financial responsibility shall be stayed pending the decision on such hearing or any direct appeal to the courts from that decision. If an objection is received, the department shall notify the appellant, his attorney, or other designated representative, of the date, time and place of the hearing, at least twenty days prior to the date thereof by written notice to the appellant or his representative by registered or certified mail or personal service; Provided, that said hearing shall be scheduled within thirty days of the date of receipt of the objection. If the time, date or place is inconvenient to either party, the hearing examiner may grant a new time, date or place as is reasonably convenient upon a showing of good cause. [Order 1054, § 388-11-060, filed 9/25/75; Order 875, § 388-11-060, filed 11/16/73.]

**WAC 388-11-065 Responsible parent to show cause—Affirmative defenses—Burden of proof.** At the hearing scheduled to hear the request for hearing made pursuant to WAC 388-11-060, the responsible parent shall show cause, if any there be, why the finding of financial responsibility and/or the amount prayed for therein is inaccurate and why the hearing examiner should not enter a final decision and order as prayed for in said notice and finding of financial responsibility but should either rescind or modify the same. In said show cause hearing the responsible parent shall state affirmatively and shall have the burden of proving:

- (1) Estoppel;
- (2) Payment;
- (3) Release;
- (4) Superior court order;
- (5) Waiver;
- (6) Lack of eligibility in the receipt of public assistance funds paid to or for the benefit of the responsible parent's minor child or children; Provided, that lack of eligibility shall operate as a defense to a responsible parent's liability to repay the department only to the extent the amount of ineligibility proven in any one month exceeds the difference between the total grant for that month and the amount of the support liability determined for that month;
- (7) Lack of natural or adoptive parentage; Provided, however, if the responsible parent alleges (s)he is not the natural or adoptive parent of the minor child or children listed in the notice and finding of financial responsibility and said child or children were not born during the term of marriage of the responsible parent to the natural mother or father of said minor child or children or born within nine months after dissolution of marriage, the office of support enforcement shall have the burden of proving by a preponderance of the evidence that the responsible parent is the natural or adoptive parent of said minor child or children;
- (8) Inability to pay the amount determined and/or inaccuracy of amount or value of net earnings or resources upon which the original determination is based;

(9) Lack of need and/or debt pursuant to RCW 26-16.205, and

(10) Any other matter constituting an avoidance or affirmative defense to the notice and finding of financial responsibility. [Order 1054, § 388-11-065, filed 9/25/75.]

**WAC 388-11-070 Continuance of cases.** Either the office of support enforcement or the responsible parent desiring a continuance shall immediately, upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his or her or their knowledge, notify the hearing examiner stating the reasons such continuance is necessary. For good cause shown, the hearing examiner may grant such continuance upon his own motion. During the hearing, if it appears in the interest of justice that further testimony or argument should be received, the hearing examiner may continue the hearing and fix a date for introduction of additional evidence or presentation of argument. [Order 1054, § 388-11-070, filed 9/25/75; Order 875, § 388-11-070, filed 11/16/73.]

**WAC 388-11-080 Requests for admission.** Either the office of support enforcement or the responsible parent may serve upon the other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of RCW 74.20A.055. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of the hearing examiner, be served upon the other party together with, or at any time subsequent to the service of the notice and finding of financial responsibility upon the responsible parent. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within twenty days after service of the request or within such shorter or longer time as the hearing examiner may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or denial addressed to the matter, signed by the party or his attorney. If denial is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. The party who has requested the admission may move to determine the sufficiency of the answers or denials. Unless the hearing examiner determines that an objection is justified, he will order that an answer be served. If the hearing examiner determines that an answer does not comply with the requirements of this rule,

he may order either that matter is admitted or that an amended answer be served. The hearing examiner may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to hearing. Any matter admitted under this rule is conclusively established unless the hearing examiner on motion permits withdrawal or amendment of the admission for good cause shown. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding. [Order 1054, § 388-11-080, filed 9/25/75; Order 875, § 388-11-080, filed 11/16/73.]

**WAC 388-11-090 Hearing examiner.** The hearing shall be conducted by a duly qualified hearing examiner appointed by the secretary for such purpose who was not previously involved in any way with the action in question. No hearing examiner shall hear a contested case provided for by chapter 183, section 25, Laws of 1973, 1st ex. sess., when it has been requested by any party or representative that a different hearing examiner be assigned to hear said matter: provided, that no party or representative shall be permitted to make more than one such request in the same case without the allegation and proof that actual cause exists for the removal of the hearing examiner first assigned to hear said case. The party or representative requesting the change of hearing examiner shall make said request in writing and said request shall be filed and called to the attention of the hearing examiner not less than twenty-four hours in advance of the hearing. [Order 875, § 388-11-090, filed 11/16/73.]

**WAC 388-11-100 Duty of hearing examiner.** Based on the notice and finding of financial responsibility and objections made thereto, the hearing examiner shall determine the liability and responsibility, if any, of the responsible parent under RCW 74.20A.030 and RCW 74.20.292. The hearing examiner shall also determine the amount of periodic payments to be made to satisfy past, present, or future liability under RCW 74.20.292, RCW 74.20A.030 and/or RCW 26.16.205 and/or RCW 74.20A.250. In making these determinations, a hearing examiner shall include in his considerations:

(1) The necessities and requirements of the child or children exclusive of any income of the custodian of said child or children;

(2) The amount of support debt claimed;

(3) The public policy and intent of the legislature to require that children be maintained from the resources of the responsible parents thereby relieving to the greatest extent possible the burden borne by the general citizenry through welfare programs;

(4) The abilities and resources of the responsible parent; and

(5) The standards in WAC 388-11-190 and any standards for determination of support payments used by the superior court of the county of residence of the responsible parent. The hearing examiner is empowered, upon proper showing of unusual circumstances, to set an

amount of support, as to the past, present, or future, at variance from the amount stated or computed in reference to the scale in WAC 388-11-190. The findings of fact shall consist of a concise statement of each fact found upon each contested issue of fact and shall state the grounds for deviation from the standards in WAC 388-11-190. The hearing examiner shall make his decision and enter his findings of fact based on the notice and finding of financial responsibility and the evidence admitted at the hearing. The office of support enforcement may verbally amend the notice and finding of financial responsibility at the time of hearing to conform to the evidence in which case the hearing examiner is empowered, when deemed necessary, through continuance, to allow the responsible parent additional time to present rebutting evidence and/or argument as to the amendment. [Order 1054, § 388-11-100, filed 9/25/75; Order 875, § 388-11-100, filed 11/16/73.]

**WAC 388-11-110 Determination of future liability.** It shall be within the authority of the hearing examiner, consistent with the prayer for relief in the notice and finding of financial responsibility, to order payment of current and future support payments to meet the responsible parent's obligations under RCW 74.20A.030 or RCW 26.16.205 and/or RCW 74.20A.250. Said order shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the hearing order or decision. [Order 875, § 388-11-110, filed 11/16/73.]

**WAC 388-11-120 Default.** If the responsible parent fails to appear at the hearing, the hearing examiner shall, upon showing of valid service, enter a decision and order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action. Within fifteen days of entry of said decision and order the responsible parent may petition the secretary or his designee, the office of hearings, post office box 2465, Olympia, Washington 98507, or 1117 Jefferson, Olympia, Washington, to vacate said decision and order upon the showing of any of the grounds enumerated in RCW 4.72.010. Prospective modification pursuant to WAC 388-11-140 may also be ordered when appropriate as to that portion of the original determination for periodic future support payments. It shall not be necessary for the responsible parent to show material change of circumstances if prospective modification is sought as to an original determination for periodic future support payments which determination was made by allegation of ability to pay based on the best information available. [Order 1054, § 388-11-120, filed 9/25/75; Order 875, § 388-16-120, filed 11/16/73.]

**WAC 388-11-130 Decision and order after hearing.** The hearing examiner shall, within twenty days of the hearing, enter findings, conclusions, and a final decision determining liability and responsibility and/or future periodic support payments. The determination of the hearing examiner entered pursuant to this section shall be entered as a decision and order and shall limit the

support debt under RCW 74.20A.030, RCW 74.20.292 and/or RCW 26.16.205 and/or RCW 74.20A.250 to the amount stated in said decision. Said decision establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the hearing order or decision. [Order 875, § 388-11-130, filed 11/16/73.]

**WAC 388-11-140 Modification.** Either the responsible parent or the office of support enforcement may petition the secretary or his designee, the office of hearings, post office box 2465, Olympia, Washington 98507, or 1117 Jefferson, Olympia, Washington, for issuance of an order to appear and show cause based upon a showing of good cause and material change in circumstances to require the other party to appear and show cause why the decision previously entered ordering periodic future support payments should not be prospectively modified. Said order to appear and show cause together with a copy of the affidavit upon which the order is based shall be served in the manner of a summons in a civil action on the other party by the petitioning party. A hearing, which shall be a contested case, shall be set not less than fifteen days nor more than thirty days from the date of service unless extended for good cause shown. Prospective modification may be ordered, but only upon showing of good cause and material change in circumstances except as provided in WAC 388-11-050 and 388-11-120. An order to appear and show cause under this modification provision may not issue unless the previous order for periodic future support payments to which modification is requested was entered pursuant to RCW 74.20A.055 and there is the absence of a superior court order for support. The hearing examiner on petitions to modify shall consider the standards promulgated pursuant to RCW 74.20.270 and any standards for determination of support payments used by the superior court of the county of residence of the responsible parent. If the party ordered to appear and show cause why a decision previously entered should not be prospectively modified fails to appear at the hearing, the hearing examiner shall grant relief as a default order based on the prayer for relief in the motion and affidavit. Within fifteen days of entry of said default order the defaulting party may petition the secretary or his designee, the office of hearings, post office box 2465, Olympia, Washington 98507, or 1117 Jefferson, Olympia, Washington, to vacate said default order upon showing of any of the grounds enumerated in RCW 4.72.010. The hearing examiner may set the effective date of prospective modification as either the date of entry of the order or the date of receipt of the petition or any time in between, but if no effective date is set, the effective date shall be the date of entry of the order. [Order 1054, § 388-11-140, filed 9/25/75; Order 875, § 388-11-140, filed 11/16/73.]

**WAC 388-11-150 Consent order.** In the absence of a superior court order, informal disposition of any contested case or petition or order to show cause or modification wherein a debt is claimed pursuant to RCW

74.20.292, RCW 74.20A.030, RCW 26.16.205 and/or RCW 74.20A.250 is encouraged where feasible and not specifically precluded by law. Said cases may be disposed of by stipulation, agreed settlement, or consent order. The hearing examiner shall approve any consent order disposing of a contested case unless specifically contrary to law. Informal disposition on consent order shall be deemed to be a request for hearing granting jurisdiction to the hearing examiner to approve said consent order without the necessity of testimony or hearing, upon presentation by the support enforcement section. Provided, That if said negotiation as to a consent order is commenced within twenty days of service on the responsible parent of the notice and finding of financial responsibility, and such negotiations fail, a hearing shall be scheduled and held within thirty days of the breakdown of negotiations. [Order 875, § 388-11-150, filed 11/16/73.]

**WAC 388-11-160 Procedure for reconsideration of decision, clarification of decision or for rehearing.** (1)

Ground for reconsideration, clarification or new hearing. The decision may be reconsidered, clarified and/or a new hearing granted to the responsible parent or the office of support enforcement on all or any part of the issues, when such issues are clearly and fairly separable and distinct, on the motion of the party aggrieved for any one of the following causes materially affecting the substantial rights of such parties:

(a) Irregularity in the proceedings of the hearing examiner or adverse party, or any order of the hearing examiner, or abuse of discretion, by which the moving party was prevented from having a fair hearing;

(b) Misconduct of prevailing party;

(c) Accident or surprise which ordinary prudence could not have guarded against;

(d) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the hearing;

(e) That there is no evidence or reasonable inference from the evidence to justify the decision, or that it is contrary to law or these rules;

(f) Error in mathematical computation;

(g) Error in the law occurring at the hearing and objected to at the time by the party making the application;

(h) That the moving party is unable to perform according to the terms of the order without further clarification; and/or

(i) That substantial justice has not been done.

(2) Time for motion. A motion for reconsideration and/or for a new hearing shall be served by the aggrieved party by certified mail at last known address or personal service upon the other party and the hearing examiner issuing the decision within fifteen days after the written decision is received. Motions served upon the office of support enforcement shall be served upon the appropriate regional supervisor of the office of support enforcement.

(3) Time for serving affidavits. When a motion is based upon affidavits they shall be served with the motion. The opposing party has ten days after such service within which to serve opposing affidavits which period may be extended by the hearing examiner for an additional period not to exceed twenty days upon a showing of good cause by the moving party.

(4) On motion of hearing examiner. Not more than fifteen days after entry of the decision, the hearing examiner on his own motion may order a hearing on his proposed order for reconsideration or for new hearing for any reason for which he might have granted the same on motion of a party, and any such motion shall specify the grounds therefor.

(5) Statement of reasons. In all cases where the hearing examiner grants a motion pursuant to this rule, the order shall state the facts and circumstances relied upon by the hearing examiner in granting said motion and shall state, with particularity, the issues to be reconsidered.

(6) Reopening decision. Upon entry of the order to reconsider, clarify and/or for new hearing the hearing examiner may take additional testimony, amend findings of fact and conclusions of law or make new findings of fact and conclusions of law and enter a new decision. The final decision shall be entered not more than twenty days after conclusion of the proceedings pursuant to this rule.

(7) Clerical mistakes. Clerical mistakes in the decision arising from oversight or omission may be corrected at any time by the hearing examiner or on the motion of either party. During the pendency of an appeal, such mistakes may be so corrected before the appeal is filed in superior court and thereafter while the appeal is pending may be so corrected with leave of the superior court, or other appellate court having jurisdiction of the cause. [Order 1054, § 388-11-160, filed 9/25/75; Order 875, § 388-11-160, filed 11/16/73.]

**WAC 388-11-170 Collection of debts determined.** Whenever an order designating the amount of periodic payments to be made to satisfy a past liability has not been complied with, the accrued debt, not paid, shall become due in full and said order designating periodic payments to satisfy past, accrued liability shall be deemed to be vacated without the necessity of further action by the hearing examiner. After such vacation, collection action pursuant to chapter 74.20A RCW by the office of support enforcement as authorized representative of the secretary as to debts determined, accrued, and unpaid may not be stayed by the hearing examiner and is subject only to review by the superior court pursuant to RCW 74.20A.200. [Order 1054, § 388-11-170, filed 9/25/75; Order 875, § 388-11-170, filed 11/16/73.]

**WAC 388-11-180 Procedural reference.** The following WAC provisions are herewith included in this section and made applicable to hearings held pursuant to RCW 74.20A.055:

## WAC

388-08-055	388-08-235
388-08-083	388-08-375
388-08-150	388-08-390
388-08-160	388-08-400
388-08-170	388-08-480
388-08-180	388-08-490
388-08-190	388-08-500
388-08-200	388-08-520
388-08-210	388-08-600
388-08-220	

In determining the validity of defenses to liability asserted pursuant to RCW 74.20A.030 and/or RCW 74.20.292 other provisions of the Washington Administrative Code shall be applied to determine emancipation and determine defenses asserted pursuant to WAC 388-11-065(g). [Order 1054, § 388-11-180, filed 9/25/75; Order 875, § 388-11-180, filed 11/16/73.]

**WAC 388-11-185 Discovery.** Either party may petition the hearing examiner for interrogatories and/or depositions for use as evidence in a hearing. The petitioner shall give reasonable notice of not less than five days in writing to the department's examiner and all parties. After notice is served for taking a deposition, the hearing examiner, upon his own motion or upon motion reasonably made by any party or by the person to be examined and for good cause shown, may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and counsel. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged or confidential which is relevant to the subject matter involved in the proceeding.

If deemed expeditious, the hearing examiner may take or cause to be taken, depositions and interrogatories for use as evidence in any hearing. [Order 1054, § 388-11-185, filed 9/25/75.]

**WAC 388-11-190 Scale of minimum contributions.** The rates shown in this section are established pursuant to RCW 74.20.270. They define levels of minimum contributions based on net income for use in determining the amount that a parent will be required to contribute to or for the benefit of his child(ren). "Net income" is defined for purposes of this scale as that part of the income of any responsible parent remaining after the deduction from that income of any amount required by law to be withheld. "Income" includes all payment of monies to a responsible parent from any sources whatsoever which may be disposed of by the responsible parent under the law. Other available resources, real and personal property available and/or saleable and income therefrom including the responsible parent's ability to borrow may be considered in determining minimum contributions. Contributions should not be lessened by consideration of debts of the responsible parent. Public policy found in

both state and federal laws requires preference for support of minor dependent children from the funds of the responsible parent. Where monthly net income is less than \$300, the responsible parent shall have a minimum support obligation equal to that required at \$300 per month net income.

RESPONSIBLE PARENT'S MONTHLY NET INCOME TO NEAREST \$25.00	SCALE OF MINIMUM CONTRIBUTIONS FOR THE BENEFIT OF MINOR DEPENDENT CHILDREN - RATE BY NUMBER OF CHILDREN AS STATED IN NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY				
	1	2	3	4	5 or more
\$ 300 and below	\$ 60.00	\$105	\$ 135.00	\$150	\$ 150.00
325	62.50	110	142.50	160	162.50
350	65.00	115	150.00	170	175.00
375	67.50	120	157.50	180	187.50
400	70.00	125	165.00	190	200.00
425	72.50	130	172.50	200	212.50
450	75.00	135	180.00	210	225.00
475	77.50	140	187.50	220	237.50
500	80.00	145	195.00	230	250.00
525	82.50	150	202.50	240	262.50
550	85.00	155	210.00	250	275.00
575	87.50	160	217.50	260	287.50
600	90.00	165	225.00	270	300.00
625	92.50	170	232.50	280	312.50
650	95.00	175	240.00	290	325.00
675	97.50	180	247.50	300	337.50
700	100.00	185	255.00	310	350.00
725	102.50	190	262.50	320	362.50
750	105.00	195	270.00	330	375.00
775	107.50	200	277.50	340	387.50
800	110.00	205	285.00	350	400.00
825	112.50	210	292.50	360	412.50
850	115.00	215	300.00	370	425.00
875	117.50	220	307.50	380	437.50
900	120.00	225	315.00	390	450.00
925	122.50	230	322.50	400	462.50
950	125.00	235	330.00	410	475.00
975	127.50	240	337.50	420	487.50
1,000	130.00	245	345.00	430	500.00
1,025	132.50	250	352.50	440	512.50
1,050	135.00	255	360.00	450	525.00
1,075	137.50	260	367.50	460	537.50
1,100	140.00	265	375.00	470	550.00
1,125	142.50	270	382.50	480	562.50
1,150	145.00	275	390.00	490	575.00
1,175	147.50	280	397.50	500	587.50
1,200	150.00	285	405.00	510	600.00
1,225	152.50	290	412.50	520	612.50
1,250	155.00	295	420.00	530	625.00
1,275	157.50	300	427.50	540	637.50
1,300	160.00	305	435.00	550	650.00
1,325	162.50	310	442.50	560	662.50
1,350	165.00	315	450.00	570	675.00
1,375	167.50	320	457.50	580	687.50
1,400	170.00	325	465.00	590	700.00
1,425	172.50	330	472.50	600	712.50
1,450	175.00	335	480.00	610	725.00
1,475	177.50	340	487.50	620	737.50
1,500	180.00	345	495.00	630	750.00
1,525	182.50	350	502.50	640	762.50
1,550	185.00	355	510.00	650	775.00
1,575	187.50	360	517.50	660	787.50
1,600	190.00	375	528.00	670	800.00
1,625	192.50	380	532.50	680	812.50
1,650	195.00	385	540.00	690	825.00
1,675	197.50	390	547.50	700	837.50
1,700	200.00	395	555.00	710	850.00
1,725	202.50	400	562.50	720	862.50

RESPONSIBLE PARENT'S MONTHLY NET INCOME TO NEAREST \$25.00	SCALE OF MINIMUM CONTRIBUTIONS FOR THE BENEFIT OF MINOR DEPENDENT CHILDREN - RATE BY NUMBER OF CHILDREN AS STATED IN NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY				
	1	2	3	4	5 or more
1,750	205.00	405	570.00	730	875.00
1,775	207.50	410	577.50	740	887.50
1,800	210.00	415	585.00	750	900.00
1,825	212.50	420	592.50	760	912.50
1,850	215.00	425	600.00	770	925.00
1,875	217.50	430	607.50	780	937.50
1,900	220.00	435	615.00	790	950.00
1,925	222.50	440	622.50	800	962.50
1,950	225.00	445	630.00	810	975.00
1,975	227.50	450	637.50	820	987.50
2,000	230.00	455	650.00	830	1,000.00

[Order 1119, § 388-11-190, filed 5/13/76; Order 875, § 388-11-190, filed 11/16/73.]

**Chapter 388-14 WAC  
SUPPORT ENFORCEMENT**

<b>WAC</b>	
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388-14-315	Nonassistance support enforcement—Fees—Limitations.
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388-14-325	Nonassistance support enforcement—Termination of services.
388-14-350	Location of absent parents.
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388-14-365	Reassignment by state administering an approved plan.
388-14-370	Cooperative arrangements with courts and law enforcement officials.

**WAC 388-14-010 Office of support enforcement as the Title IV-D agency.** (1) Pursuant to chapter 74.20 RCW and chapter 74.20A RCW, the department of social and health services of the state of Washington through the office of support enforcement establishes the following provisions as the state plan for child support pursuant to Title IV-D of the social security act.

(2) The office of support enforcement is designated and established as the single and separate organizational unit within the state of Washington to administer the

plan which shall be in effect in all political subdivisions of the state of Washington.

(3) The office of support enforcement is the operating agency referred to in federal rules and regulations as the Title IV-D agency. The office of support enforcement is authorized to assume any and all responsibilities assigned the Title IV-D agency including but not limited to the following:

(4) Entering into agreements as required with other states and the secretary, department of health, education and welfare:

(a) To contract with other states for the referral of cases under the uniform reciprocal enforcement of support act and other cases where enforcement or collection of support location of absent parents or establishment of paternity are appropriate. Include in such agreements the procedures for making referrals, assigning debt, distributing incentive payments, and reporting actions and activities on the part of this state for another, or another state for this state and coordination of activities pursuant to and insuring compliance with the uniform reciprocal enforcement of support act.

(b) To contract with the secretary, department of health, education and welfare and maintain liaison for:

(i) Referral to parent locator service including amount and collection of fees.

(ii) Certification and referral of cases as appropriate for the collection of support delinquencies by the secretary of the treasury.

(iii) Certification and referral of cases as appropriate for utilization of the U.S. District Courts.

(5) The office of support enforcement is responsible for administration of the Title IV-D plan including supervisory authority for any and all activities necessary to meet the standards for an efficient and effective program including formal evaluation of the quality, efficiency, effectiveness and scope of services provided under the plan. The office will take necessary measures to meet federal and state requirements for accounting and fiscal control, insuring that location, establishment of paternity, and establishment, enforcement, and collection of support functions are carried out effectively and efficiently. The office of support enforcement is also responsible to assure that referrals and other communications with the Title IV-A agency meet the requirements of the Title IV-D and Title IV-A state plans. [Order 1054, § 388-14-010, filed 9/25/75.]

**WAC 388-14-020 Definitions.** (1) The terms "applicant/recipient", "applicant", or "recipient" include the caretaker relative, the children, and any other individual whose needs are considered in determining the amount of assistance. See also WAC 388-22-030.

(2) The term "applicant/custodian" shall designate the individual who is the physical and legal custodian of any person(s) on whose behalf an application for nonassistance support enforcement services has been made to the office of support enforcement pursuant to RCW 74.20.040 and 74 USC 654(6) or 42 USC 657(C)(1)(2).

(3) The term "absent parent" shall designate that person who:

(a) Is not the physical custodian of the child; and

(b) Is a natural, or adoptive parent, or a stepparent who owes a legal duty to support said child or children on whose behalf an application has been made for payment of public assistance or application has been made for nonassistance support enforcement services and/or owe a support obligation for the applicant/recipient or owes any other payments or property to the applicant/recipient or child(ren).

(4) "Putative father" as used in this section shall include any and all men who may possibly be the father of the child(ren) on whose behalf the application for assistance or support enforcement services may be made.

(5) "Aid" means aid to families with dependent children, emergency assistance, or AFDC foster care.

(6) "Title IV-D" refers to Title IV-D of the social security act established under Title XX of the social security amendments and as incorporated in 42 USC (602).

(7) "Title IV-D plan" refers to a plan established under the conditions of Title IV-D approved by the secretary, department of health, education and welfare.

(8) "Bonus payment" is defined as payment to the family of the monies provided for in WAC 388-14-270(2)(a).

(9) "Incentive payments" are payments distributed pursuant to WAC 388-14-370 to prosecuting attorneys or other political subdivision on the basis of enforcement and collection of support payments. [Order 1054, § 388-14-020, filed 9/25/75.]

**WAC 388-14-030 Confidentiality.** The department shall not give out any information to the absent parent concerning the recipient in the conduct of activities associated with this chapter except as authorized in chapter 388-48 WAC. [Order 1054, § 388-14-030, filed 9/25/75.]

**WAC 388-14-100 Absent parent's responsibility—Liability.** The amount of support which must be provided by an absent parent to meet the support obligation is:

(1) The amount required by a superior court order for support, or, if there is no superior court order for support, the amount determined pursuant to chapter 388-11 WAC as future periodic support, and, if applicable;

(2) Payment of arrears which may be paid on a mutually agreed schedule adequate to satisfy said arrears prior to expiration of the statute of limitations. [Order 1054, § 388-14-100, filed 9/25/75.]

**WAC 388-14-200 Eligibility—Assignment of support rights—Cooperation with office of support enforcement—Effect of noncooperation.** This section establishes the initial and continuing requirements which affect eligibility for aid to families with dependent children.

(1) Beginning August 1, 1975, as a condition of eligibility for assistance, each applicant/recipient shall make assignment to the office of support enforcement of any and all right, title, and interest in any support obligation the applicant/recipient may have in his or her own behalf or in behalf of any other family member for whom



the applicant/recipient is applying for or receiving financial assistance including rights to support which have accrued at the time such assignment is executed.

(a) Each ongoing applicant/recipient after August 1, 1975 must make this new assignment. Assignments will be necessary as a condition of continued aid due no later than the date of the next eligibility review. See WAC 388-24-108.

(b) The new assignment must be made before the applicant/recipient is eligible to receive bonus payments.

(2) When (1), above is satisfied, cooperation is further required as a continuing condition of eligibility for assistance. Cooperation includes identifying and locating absent parents including possible putative fathers, and in establishing paternity of a child or children, and/or in obtaining support payments or any other payments or property due the applicant/recipient or child(ren) as further provided below:

(a) Cooperation in identifying and locating absent parents including putative fathers includes, but is not limited to:

(i) providing all known relevant information such as the absent parent's name including known aliases, address, telephone or message number; social security number, employment history, physical description, and data regarding the date and place of marriage, separation, divorce, and dissolution including copies of documents and court orders establishing paternity and/or support obligations, if any. Information must be given at the time of application or at a later time if requested by the office of support enforcement to supplement existing information;

(ii) providing notice to the office of support enforcement of any and all necessary information concerning the absent parent(s), including all men who could possibly be the putative father of a child on whose behalf the recipient applied for or receives public assistance, and also providing notice of changes in the information and/or notice of new information as available.

(b) Cooperation in establishing the paternity of a child or children including, but not limited to: taking all reasonable action in cooperation with the office of support enforcement, the prosecuting attorneys, the attorney general, courts or other agencies, in administrative hearings, or in actions to prosecute or maintain any legal action or remedy for the establishment of paternity or in investigations preparatory to or supplementary to such hearings or actions, and to develop medical and anthropological evidence relating to the alleged father's paternity based upon tests performed by experts on the mother and the child.

(c) Cooperation in establishing and collecting support and/or in obtaining support payments or any other payments or property due the applicant/recipient or child(ren) includes taking all reasonable action in cooperation with the office of support enforcement, the prosecuting attorneys, the attorney general, courts or other agencies in administrative hearings or in actions to prosecute or maintain any legal action or remedy for the establishment or collection of support obligations or in investigations preparatory to or supplementary to such hearings or actions.

(d) Cooperation in the obtaining of support payments further includes but is not limited to:

(i) Providing of specific information at the time of application to establish the amount of the support debt accrued to the applicant/recipient prior to application for assistance.

(ii) Immediate remittance of all support payments received by the applicant/recipient from any person or agency to the office of support enforcement.

(3) If the applicant/recipient fails to cooperate as defined above the caretaker/relative shall be ineligible to receive assistance and any assistance for which the children may be eligible shall be provided by protective payment as specified in WAC 388-33-453; the determination of requirements for the child(ren) shall be computed without regard to the requirements of the caretaker/relative.

(4) If support monies are not promptly remitted and protective payments have been established without regard to the requirements of the caretaker/relative pursuant to WAC 388-33-453, the office of support enforcement may enter into a written agreement with the caretaker/relative for satisfaction of the obligation of remittance of support payments by monthly installment payments to the office of support enforcement in amounts not less than ten percent of the original amount not remitted. If a caretaker/relative makes such an agreement for satisfaction and is restored to grant status and fails to make the required monthly payments or again fails to promptly remit support monies received direct, said recipient is subject to WAC 388-33-453 and thereafter may establish cooperation under this subsection only by remittance to the office of support enforcement of the full amount of support monies received.

(5) In the event of failure to cooperate under the requirements of this section and/or WAC 388-24-108 and/or 388-24-109, "aid to families with dependent children" does not mean payments with respect to a parent (or other individual whose needs should be considered in determining the need of the child(ren) or relative claiming aid) of a child or children. Nothing in these rules shall be construed to make an otherwise eligible child ineligible for protective payments because of the failure of such parent (or such other individual) to cooperate or make assignment. [Order 1054, § 388-14-200, filed 9/25/75.]

**WAC 388-14-210 Support payments to office of support enforcement.** (1) All support payments on behalf of a child for whom public assistance is being paid shall be made through the office of support enforcement. See RCW 74.20.101.

(2) Any and all support payments routed directly to a recipient of public assistance, or to another on behalf of a recipient of public assistance, by any person or agency other than the office of support enforcement shall be immediately remitted by the recipient to the office of support enforcement. [Order 1054, § 388-14-210, filed 9/25/75.]

**WAC 388-14-220 Subpoena power.** The recipient has a duty pursuant to RCW 74.04.290, "Subpoena of

witnesses, books, records, etc.", to provide necessary information concerning the absent parent or parents of the child or children on whose behalf the recipient receives public assistance to enable and assist the department to establish paternity if necessary and/or to collect a child support debt from the absent parent or parents including putative fathers. Such information shall include, but is not limited to, the absent parent's name including putative fathers, address, telephone number, social security number, employment history, physical description and other data such as date and place of marriage, separation, divorce, dissolution and such other information as is deemed necessary and reasonable to enable the department to execute its child support collection and/or paternity determination responsibility. The chief, regional supervisors, district supervisors, and support enforcement officers III of the office of support enforcement are duly appointed officers empowered to issue subpoena of witnesses, books, records, etc., pursuant to RCW 74.04-.290 and chapter 388-11 WAC as to matters they deem relevant to the performance of their duties. [Order 1054, § 388-14-220, filed 9/25/75.]

**WAC 388-14-250 Payments to the family.** Any payments required to be made to a family under WAC 388-14-270 will be made to the resident parent, legal guardian, caretaker, relative or protective payee having custody of or responsibility for the child or children as provided in WAC 388-33-400. Provided, that no payments shall be made to said parent, guardian or caretaker relative if they have failed or refused to meet the eligibility requirements for cooperation in identifying and locating the absent parent, establishing paternity, establishing or obtaining support payments including prompt remittance of support payments received directly or assigning of support rights. [Order 1054, § 388-14-250, filed 9/25/75.]

**WAC 388-14-260 Distribution—Referrals from other states.** (1) When another state reassigns to the office of support enforcement of the state of Washington debt previously assigned to that other state under 45 CFR 232.11, collection action may be taken by the office of support enforcement under chapter 74.20A RCW to satisfy the requirements to enforce obligations of the other states accrued and/or accruing pursuant to an order of the superior court of the state of Washington or an order of a court of another state comparable in jurisdiction to the superior court of the state of Washington.

(2) Support payments so collected by the state of Washington are remitted in the total amount received to the other state. [Order 1054, § 388-14-260, filed 9/25/75.]

**WAC 388-14-270 Distribution of support payments—Public assistance.** All payments collected as support received on behalf of persons receiving public assistance in the state of Washington for whom an assignment is made under WAC 388-24-108 and WAC 388-14-200 shall be distributed under the following conditions:

(1) The following provisions apply to this section:

(a) All payments will be reported in exact amounts without rounding.

(b) The date of collection shall be the date on which the payment is received by the office of support enforcement or the political subdivision making the collection under agreement and on behalf of the office of support enforcement. For interstate collections, the date of collection shall be the date on which the payment is received by the IV-D agency of the state in which the family is receiving aid.

(c) The amounts collected as support shall, for the purposes of this distribution section only, be treated first as payment on the required support obligation for the month in which support was collected.

(d) The current month's support obligation is defined as the amount of a superior court order for support or the future periodic support amount determined pursuant to chapter 388-11 WAC.

(e) Amounts collected which are paid in frequencies other than monthly shall be converted to an amount which represents payment on the required support obligation for the current month. The office of support enforcement is directed to distribute payments periodically to give effect to efficient administration.

(f) Any amounts distributed to the family will be reported to the local office identifying whether the payment is exempt or nonexempt.

(g) Any amounts collected which represent support shall be used to reduce dollar for dollar the amount of the support obligation as defined in WAC 388-14-100.

(h) No distribution may be made under subdivision (2)(a) unless a new assignment has been made pursuant to WAC 388-24-108 and WAC 388-14-200.

(2) The amounts collected as support by the IV-D agency pursuant to the state plan for children who are current recipients of aid under the State's Title IV-A plan by the office of support enforcement and for whom as assignment under WAC 388-24-108 and 388-14-200 is effective shall be distributed as follows:

(a) Of any amount that is collected in a month which represents payment of the required support obligation for that month, 40 percent of the first \$50 of such amount shall be paid to the family. This payment may not be used in determining the amount paid, if any, to the family in subdivision (2)(c). If the amount collected includes payment of the required support obligation for a previous month or months, the family shall only receive 40 percent of the first \$50 of the amount which represents the required support obligation for the month in which support was collected. If amounts are collected for one family which represents support payments from two or more absent parents, only 40 percent of the first \$50 of the amount collected which represents the total required support obligation for the month in which the support was collected shall be paid to the family under this subdivision. No payment shall be made to a family under this subdivision for a month in which there is no child support collection. The requirements of this subdivision shall not be applicable after September 30, 1976.

(b) Any amount that is collected in a month which represents payment on the required support obligation

for that month (and, prior to October 1, 1976, is in excess of the amount paid to the family under subdivision (2)(a) shall be retained by the State to reimburse, in whole or in part, the assistance payment for the month in which the child support was collected or the next month. Of the amount retained by the State as reimbursement for that month's assistance payment, the office of support enforcement shall determine the Federal government's share of the amount so retained so the IV-A agency may reimburse the Federal government to the extent of its participation in the financing of the assistance payment. From the Federal government's share, the office of support enforcement shall deduct and pay the incentive payments, if any, prescribed in WAC 388-14-370.

(c) If the amount collected is in excess of the amount required to be distributed under subdivisions (2)(a) and (2)(b), the family shall be paid such excess up to the difference between the assistance payment for the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the State's Title IV-A plan and the court ordered amount for that month. This payment shall be made in the month following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the State's Title IV-A plan. If such court ordered amount is less than such assistance payment, no amount shall be paid to the family under this subdivision. In cases in which there is no court order, the family shall not be paid any amount under this subdivision.

(d) If the amount collected is in excess of the amounts required to be distributed under subdivisions (2)(a), (2)(b), and (2)(c), any such excess shall be retained by the State as reimbursement for past assistance payments made to the family for which the State has not been reimbursed. The State may apply the amount retained to any sequence of months for which it has not yet been reimbursed. Of the amount retained by the State as reimbursement of past assistance payments, the office of support enforcement shall determine the Federal government's share of the amount so retained so the IV-A agency may reimburse the Federal government to the extent of its participation in the financing of the assistance payments. From the Federal government's share, the office of support enforcement shall deduct and pay the incentive payment, if any, prescribed in WAC 388-14-370. If past assistance payments are greater than the total support obligation owed, the maximum amount the State may retain as reimbursement for such assistance payments is the amount of such obligation, unless amounts are collected which represent the required support obligation for periods prior to the first month in which the family received assistance under the State's Title IV-A plan, in which case such amounts shall be retained by the State to reimburse the difference between such support obligation and such assistance payments.

(e) If the amount collected is in excess of the amounts required to be distributed under subdivisions (2)(a), (2)(b), (2)(c), and (2)(d), such excess shall be paid to the family. This payment shall be made in the month

following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the State's Title IV-A plan.

(3) If an amount collected as child support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under WAC 388-24-108 and WAC 388-14-200 for the current month and all past months.

(4) Any amount paid under subdivisions (2)(a), (2)(c) or (2)(e) shall be identified as not being an assistance payment. [Order 1054, § 388-14-270, filed 9/25/75.]

**WAC 388-14-300 Support enforcement services for child(ren) not receiving public assistance—Statutory basis.** As authorized by RCW 74.20.040, the department through its office of support enforcement provides support enforcement services to custodians of minor children not receiving public assistance. [Order 1054, § 388-14-300, filed 9/25/75.]

**WAC 388-14-302 Nonassistance support enforcement—Persons eligible.** (1) Any person who is a resident of the state of Washington who is not a recipient of public assistance who is a custodian or guardian of a person for whom a support obligation is owed and who is not receiving adequate support (as defined by WAC 388-14-100) from a person owing a duty to pay support may apply for nonassistance support enforcement services to establish or enforce or collect an obligation for support including accrued arrears; Provided, that the office of support enforcement may also act to establish paternity where it is a necessary part of establishing a support obligation for nonassistance recipients. When the person owing the duty to pay support is deceased or is eligible for or receiving old age or disability insurance benefits, public assistance monies, or supplemental security income, the application cannot be accepted.

(2) Any person who has been provided support enforcement services as a result of an approved application for public assistance may also apply for nonassistance support enforcement services at any time after the effective date of termination of public assistance. Support enforcement services may be continued by the office of support enforcement for a period of time not to exceed three months following termination of public assistance as a continuation of actions maintained as a result of an assignment pursuant to WAC 388-24-108 and WAC 388-14-200. During such three month period, all support monies collected except arrears owed to the department under RCW 74.20.292 and/or RCW 74.20A.030 shall be remitted to the children's custodian without deduction of fees for nonassistance services. [Order 1054, § 388-14-302, filed 9/25/75.]

**WAC 388-14-305 Nonassistance support enforcement—Application.** (1) A person desiring nonassistance support enforcement services shall complete the appropriate forms applying for the services and granting

limited power of attorney to the office of support enforcement, department of social and health services. The necessary forms must be completed in full, dated, signed, and forwarded to the district office of support enforcement. Copies of divorce or dissolution decrees, support orders and modifications thereof, and any allied or related documents which reflect the marital and support status, shall be supplied by the applicant.

(2) The applicant shall also include or attach a statement of the amount of accrued arrears and list by date and amount all support payments received during the period of time when the arrears accrued. The office of support enforcement may require this statement to be by affidavit and where controversy exists the office of support enforcement may require a judgment determining all accrued arrears owed under a continuing order of support before proceeding further with collection efforts. Applications on which statements are incomplete, unclear or inconsistent will be returned to the applicant and no service will be provided until such time as the application is presented in acceptable form.

(3) The appropriate forms will be available at any local office of the department of social and health services, or at any district office of the office of support enforcement. The forms may be requested by phone, mail, or obtained personally. [Order 1054, § 388-14-305, filed 9/25/75.]

**WAC 388-14-310 Nonassistance support enforcement—Applicant/custodian's assignment of rights.** (1) The applicant/custodian shall assign, for collection purposes only, the rights to support under RCW 26.16.205 or those rights to support accruing pursuant to a superior court order for support.

(2) The applicant/custodian shall also give consent to the office of support enforcement to take an assignment of earnings from the person owing a duty for support; agree to promptly remit to the office of support enforcement monies received directly from the person owing a duty to pay support during the period of time support enforcement services are maintained; give the office of support enforcement power of attorney to endorse checks, drafts and money orders representing support payable to said applicant.

(3) The applicant/custodian, during the time support enforcement services are in effect, must send or deliver all support income received from the person owing a duty to pay support to the office of support enforcement providing the service and direct any payor or forwarding agent of monies to remit directly to office of support enforcement. In the event the applicant/custodian fails to forward such payments or so direct any payor or forwarding agent, the office of support enforcement may discontinue providing support enforcement services. [Order 1054, § 388-14-310, filed 9/25/75.]

**WAC 388-14-315 Nonassistance support enforcement—Fees—Limitations.** (1) When requesting support enforcement services, the applicant/custodian shall agree that fees will be charged for the service, and from the monies collected or received from the person

owing the duty to pay support, the following fees shall be deducted:

- (a) Application (initial file preparation) \$20.00
- (b) Support enforcement service per month \$10.00

(2) However, no fees may be charged for the three-month period following the termination of public assistance when support collection activities initiated on the basis of receipt of public assistance have been continued by the office of support enforcement as authorized by 42 USC 657(c) and WAC 388-14-300.

(3) In no event shall the fees collected by the office of support enforcement exceed the amount of fees owed or ten percent of the payments made by the person owing the duty to pay support, whichever is the lesser. [Order 1054, § 388-14-315, filed 9/25/75.]

**WAC 388-14-320 Nonassistance support enforcement—Distribution.** (1) Current support payments received on behalf of the applicant/custodian in the three months following termination of an applicant/recipient from public assistance are forwarded without deduction of fees.

(2) Support payments received on behalf of the applicant/custodian are forwarded as received after the deduction of fees for services with a statement of the amount of support received and the amount of fees deducted.

(3) Provided, nothing herein shall be construed to obligate the office of support enforcement to remit to the applicant/custodian monies paid in satisfaction of a debt owed to the department under RCW 74.20.292 or RCW 74.20A.030. The total amount of any obligation that has accrued under the IV-D assignment made pursuant to WAC 388-24-108 and WAC 388-14-200 prior to termination of assistance is collectible by the office of support enforcement subsequent to termination of assistance to reimburse for public assistance paid prior to termination. [Order 1054, § 388-14-320, filed 9/25/75.]

**WAC 388-14-325 Nonassistance support enforcement—Termination of services.** (1) Support enforcement services may be terminated by the applicant/custodian:

(a) An applicant/custodian may terminate support enforcement service(s) by written notice to the office of support enforcement. The office of support enforcement's rights and responsibilities toward the applicant/custodian shall continue in effect until written notification is received.

(b) Upon receipt of the applicant/custodian's request for termination of support enforcement services, the office of support enforcement will discontinue such service. Any support monies received which are owing to the applicant/custodian after the receipt of notice shall be returned to the payor with instructions to send all support monies directly to the applicant/custodian or forwarding agent as appropriate.

(c) If an applicant/custodian has requested termination of support enforcement service(s) while a fee balance is still owing, the office of support enforcement may require payment of this balance as a condition

precedent to the acceptance of any subsequent application for support enforcement service(s) by that applicant/custodian. However, this required payment is limited to a maximum of ten percent of any support money collected by the applicant/custodian during the period of time preceding the re-application as the result of action taken by the office of support enforcement preceding termination of services.

(2) Support enforcement services may be terminated by the office of support enforcement:

(a) In cases where further action to enforce payment of a support obligation is deemed inappropriate or inadvisable by the office of support enforcement.

(b) In the event an applicant/custodian fails or refuses to provide supplementary information or fails or refuses to forward to the office of support enforcement support payments made direct, or fails or refuses to take necessary cooperative action as specifically requested by the office of support enforcement or who employs and/or fails or refuses to discharge a private attorney, collection agency or other agency engaged in collection of the support debt assigned for collection to the department.

(c) in the event nonassistance support enforcement fees are raised and an applicant/custodian fails or refuses to complete a new request for nonassistance support enforcement services and limited power of attorney authorizing deduction of the increased fees.

(3) When the office of support enforcement terminates services, the applicant/custodian must be notified in writing that the office of support enforcement will no longer provide support enforcement services. Notification may be by regular mail addressed to the applicant/custodian's last known address and must include the reason for discontinuation of services.

(4) Any support monies received after a notice of decision by the office of support enforcement to discontinue support enforcement services has been mailed shall be returned to the payor with instructions to send all support monies directly to the applicant/custodian or other forwarding agent, court, as appropriate. [Order 1054, § 388-14-325, filed 9/25/75.]

**WAC 388-14-350 Location of absent parents.** (1) The office of support enforcement shall maintain a service to locate absent parents utilizing all sources of information and available records in this state or in other states, and the parent locator service in the department of health, education and welfare.

(2) The office of support enforcement will receive applications to undertake location activities for:

(a) Persons receiving public assistance in the state of Washington for the benefit of dependent children.

(b) Any agency or attorney of any state seeking to collect support obligations pursuant to an agreement entered into with the office of support enforcement under the state plan; or a court which has authority to issue an order against an absent parent for the support and maintenance of a child; or the resident parent, legal guardian, attorney or agent of a child who is not receiving public assistance in the state of Washington for application to use the federal parent locator service.

(c) The IV-D agency of another state to locate an absent parent who is in the state of Washington.

(3) Referrals at a minimum must include the absent parent's name, and if known, the absent parent's social security number, whether the absent parent is or has been a member of the armed services, whether the absent parent is receiving or has received any federal compensation or benefits and any other information which might assist in location activities. In addition, the referral must include a request to be transmitted to the federal parent locator service which request must be counter-signed by the chief, office of support enforcement, or his designee requesting the information and attesting that:

(a) the request is being made to locate an individual for the purpose of establishing paternity or securing support, and for no other purpose;

(b) that any information obtained from the parent locator service shall be treated as confidential; and

(c) that the certifying agency will take protective measures to safeguard personal information received from the parent locator service.

(4) Locate requests to the parent locator service of the state of Washington by a IV-D agency of another state pursuant to subdivision (2)(c) shall, after unsuccessful but diligent and reasonable efforts to locate, be returned to the IV-D agency of origin for action as appropriate including referral to the federal parent locator service.

(5) The office of support enforcement, after utilizing local and state resources, will submit remaining referrals after sixty days to the federal parent locator service or to another IV-D parent locator service as appropriate.

(6) The office of support enforcement is authorized to enter into arrangements and otherwise cooperate with the secretary, department of health, education and welfare in carrying out the purposes of 42 USC 653, including collection of fees for utilizing the federal parent locator service. [Order 1054, § 388-14-350, filed 9/25/75.]

**WAC 388-14-360 Cooperation with other states.** The office of support enforcement will, in accordance with standards prescribed by the secretary, department of health, education and welfare cooperate with any other state in:

(1) Establishing paternity, if necessary;

(2) Locating an absent parent residing in this state against whom any action is being taken under a program of another state established under a Title IV-D plan.

(3) Securing compliance by an absent parent residing in this state with an order issued by a court of competent jurisdiction equivalent to the superior court of the state of Washington against said parent for the support and maintenance of a child or children of said parent with respect to whom aid is being provided under a Title IV-D plan.

(4) Carrying out other functions required under a Title IV-D plan. The office of support enforcement on behalf of the department of social and health services will comply with such other requirements and standards as the secretary of the department of health, education and welfare determines to be necessary to the establishment

of an effective program for locating absent or noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments. [Order 1054, § 388-14-360, filed 9/25/75.]

**WAC 388-14-365 Reassignment by state administering an approved plan.** A state administering a plan approved under Title IV-D of the Social Security Act may, on behalf of a resident of that state reassign to the office of support enforcement those support rights assigned to that state pursuant to 42 USC 602(26)(A) when those rights have accrued under an order of the superior court of the state of Washington or of a court of jurisdiction comparable to the superior court of the state of Washington. The office of support enforcement may utilize all remedies in chapter 74.20 RCW, and chapter 74.20A RCW to collect said reassigned rights. [Order 1054, § 388-14-365, filed 9/25/75.]

**WAC 388-14-370 Cooperative arrangements with courts and law enforcement officials.** (1) The office of support enforcement is herewith authorized to enter into cooperative arrangements and written agreements including financial arrangements with appropriate courts and law enforcement officials to assist the office of support enforcement in administering the state plan for support enforcement in order to assure optimum results under such program. These cooperative arrangements and written agreements also include entering into financial arrangements or agreements with such agencies and officials to provide for the investigation and prosecution of fraud directly related to paternity, child support, and other matters of common concern. The office of support enforcement is herewith authorized to enter into cooperative arrangements and written agreements with courts for the purpose of appointing attorneys to represent dependent children to establish support obligations and take other related collection and enforcement action pursuant to chapter 26.09 RCW.

(2) The office of support enforcement shall receive and distribute funds made available as payments to states to administer this plan (42 USC 655). The office of support enforcement shall also administer and distribute incentive payments to localities (42 USC 658). No payments may be made to any political subdivision, court or law enforcement official of the state of Washington under these provisions except in compliance with the requirements of agreements made between the office of support enforcement and the political subdivision, court or law enforcement official pursuant to this section. No incentive payments to localities may be made except for enforcement and collection of support rights assigned pursuant to WAC 388-24-108.

(3) In order to qualify for payments to states or incentive payments to localities, a political subdivision, court or law enforcement official of the state of Washington must obtain referral of the case or cases involved from the office of support enforcement and all support payments made subsequent to referral shall be paid to the office of support enforcement. In the case of actions under the Uniform Reciprocal Enforcement of

Support Act initiated in another state, a political subdivision or law enforcement official of the state of Washington may obtain referral status by submitting documents as determined by agreement, to the office of support enforcement for acceptance under this plan.

(4) When a political subdivision of the state of Washington acting in compliance with the terms of an agreement entered into with the office of support enforcement or when a IV-D agency of another state under an approved Title IV-D plan makes the enforcement and collection of the support rights assigned under WAC 388-24-108, the office of support enforcement is authorized to pay to such political subdivision or other IV-D agency the following amounts from the amounts which would otherwise represent the share of the monies to be reimbursed to the federal government.

(a) An amount equal to 25 percent of any amount collected and retained by the state of Washington to reduce or repay assistance payments which represent payment on the required support obligation owed for the first twelve months even if these months are not consecutive;

(b) An amount equal to ten percent of any amount collected and retained by the state of Washington to reduce or repay assistance payments which represent payment on the required support obligation owed for any month after the first twelve months for which collections are made;

(c) When a family receiving aid under a Title IV-A plan ceases receiving aid and begins receiving such aid again at a later date, a new twelve month period for payment of the 25 percent incentive shall commence;

(d) The 25 percent incentive described in subdivision (4)(a) shall be paid for any month in which amounts are collected, pursuant to an assignment under WAC 388-24-108, which represents payments on the required monthly support obligation owed for 12 months and shall continue to be paid for such amounts until the amounts that are collected equal the amount owed on the required support obligation for 12 months, even if the months during which such collections are made are not consecutive.

(e) When more than one agency or jurisdiction within the state of Washington or more than one state is involved in enforcement or collection the amount of incentive stated above shall be allocated among such jurisdiction in a manner prescribed by instructions issued by the office of support enforcement of the department of health, education, and welfare. [Order 1054, § 388-14-370, filed 9/25/75.]

### Chapter 388-15 WAC

#### SOCIAL SERVICES FOR FAMILIES, CHILDREN AND ADULTS

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#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-15-100	Services offered by the economic and social services office of the bureau of social services. [Order 1088, § 388-15-100, filed 1/19/76.] Repealed by Order 1238, filed 8/31/77.
388-15-180	Migrant day care services. [Order 1088, § 388-15-180, filed 1/19/76.] Repealed by Order 1147, filed 8/26/76.
388-15-250	School age parent services. [Order 1124, § 388-15-250, filed 6/9/76; Order 1088, § 388-15-250, filed 1/19/76.] Repealed by Order 1147, filed 8/26/76.
388-15-260	Home delivered meals. [Order 1088, § 388-15-260, filed 1/19/76.] Repealed by Order 1147, filed 8/26/76.
388-15-270	Services to the blind. [Order 1088, § 388-15-270, filed 1/19/76.] Repealed by Order 1238, filed 8/31/77.
388-15-280	Library services to the blind and physically handicapped. [Order 1088, § 388-15-280, filed 1/19/76.] Repealed by Order 1124, filed 6/9/76.
388-15-350	Mental health. [Order 1124, § 388-15-350, filed 6/9/76; Order 1088, § 388-15-350, filed 1/19/76.] Repealed by Order 1238, filed 8/31/77.

**WAC 388-15-010 Definition of service goals.** (1) The objectives of services for families, children and adults are to offer services to eligible individuals to help them achieve one or more of the following goals:

(a) Achieving or maintaining economic self support to prevent, reduce or eliminate dependency.

(b) Achieving or maintaining self sufficiency, including reduction or prevention of dependency.

(c) Preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families.

(d) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care.

(e) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(2) Only one goal shall be pursued at any one time in the provision of services; however several services may be given to achieve the selected goal. [Order 1238, § 388-15-010, filed 8/31/77; Order 1088, § 388-15-010, filed 1/19/76.]

**WAC 388-15-020 Eligible persons.** (1) Individuals eligible for services are:

(a) Recipients of aid to families with dependent children (AFDC recipients).

(b) Individuals whose needs were taken into account in determining the needs of AFDC recipients.

(c) Recipients of supplemental security income or state supplementary payments related to age, blindness or permanent and total disability.

(d) Recipients of federal aid medical care only categorically related to Title XVI supplemental security income or AFDC, provided gross family income does not exceed 80% of the state median gross income for a family of four, adjusted for family size.

(e) Any individual or family regardless of age, blindness or disability, whose gross family income does not exceed 80% of the state median income for a family of four, adjusted for family size, except that:

(i) No individual or family is eligible for chore services, family planning or alcoholism services whose gross family income is in excess of 50% of the state median income for a family of four, adjusted for family size, except that a single individual may receive chore services if his median gross income does not exceed 57% of the state's median gross income for a family of four adjusted for family size.

(ii) No individual or family is eligible on a group basis for developmental disabilities, case services, developmental disabilities home-aid resources, developmental disabilities developmental centers unless at least 75% of persons given these services are members of families whose gross monthly income do not exceed 90% of the state median income, adjusted for family size.

(iii) Information and referral services or protective service may be given to any individual regardless of the level of gross family income. Child protective services are provided without charge. Where ancillary services such as chore services or homemaker services are an integral but subordinate part of a protective service plan for children or adults, they may be provided without regard to the level of gross family income.

(2) Gross median income for a family of four in the state of Washington is \$15,401. 80% = \$12,321.

(a) Income tables for 80% gross median income:

Number in Family	Monthly Income	Annual Income
1	533	6,407
2	698	8,378
3	862	10,349
4	1,026	12,321
5	1,191	14,292
6	1,355	16,264

(b) Income tables for 50% gross median income:

Number in Family	Monthly Income	Annual Income
1	333	4,004
2	436	5,236
3	539	6,468
4	641	7,701
5	744	8,933
6	847	10,165

(c) Income table for 57% gross median income, one person family only.

Monthly Income	Annual Income
380	4,565

(d) Income tables for 38% gross median income:

Family Size	Monthly Income	Annual Income
1	253	3,043
2	331	3,979
3	409	4,916
4	487	5,852
5	565	6,789
6	643	7,725

(e) See WAC 388-28-100 for grant standards.

(3) Family means two or more persons related by blood, marriage or adoption, residing in the same household.

(a) Husband and wife are considered a two-person family.

(b) Related adults residing together, other than spouses, are each considered a separate family.

(c) An individual living alone or with unrelated persons only is considered a one-person family.

(d) Children living with nonlegally responsible relatives, emancipated minors and children living under the care of unrelated persons are also considered one person families.

(4) Persons applying to provide day care or foster care facilities or a person or person[s] applying to adopt a child are resources to our primary client, the child. Financial eligibility for these individuals is not required.

(5) Child welfare services may also be provided under Title IV-B of the Social Security Act. [Order 1238, § 388-15-020, filed 8/31/77; Order 1204, § 388-15-020, filed 4/1/77; Order 1171, § 388-15-020, filed 11/24/76; Order 1147, § 388-15-020, filed 8/26/76; Order 1124, § 388-15-020, filed 6/9/76; Order 1120, §

388-15-020, filed 5/13/76; Order 1088, § 388-15-020, filed 1/19/76.]

#### WAC 388-15-030 Rights of applicant for services.

(1) Any individual has the right to request services from the department, make a service application and have his eligibility for services determined.

(2) Eligible individuals shall be given requested services, or other needed services, that are offered by the department, and included in the department's service plan, to meet the goal appropriate to his service need.

(3) Applicants or recipients may request a fair hearing concerning the denial, reduction or termination of a service, or failure to act upon a request for services with reasonable promptness.

(4) Services may not be provided prior to the date of application, nor if federal matching is to be received, provided prior to the date of determination of eligibility unless the determination is made within thirty days of the date of application and the individual was found to be eligible when service was initiated.

(5) Eligibility must be determined on an individual basis for each person in a family, unless specifically designated otherwise as in group eligibility.

(6) Notice shall be given to applicants for or recipients of services to indicate that they have been found eligible or ineligible for services. The notice shall include information about the individual's right to request a fair hearing.

(7) Service applications may be made by the individual, or others acting in his behalf, or may be the result of referral from another agency or member of the community. Where the individual is unable, too incompetent, or in a protective service case unwilling, to sign his own application, another responsible or appropriate individual may sign on his behalf, including a member of agency staff.

(8) Services may be only provided to accomplish the specific goals for the particular services as designated in the state service plan and rules. [Order 1238, § 388-15-030, filed 8/31/77; Order 1147, § 388-15-030, filed 8/26/76; Order 1088, § 388-15-030, filed 1/19/76.]

**WAC 388-15-110 Information and referral.** (1) Information and referral services are information about services provided under Title XX or by community resources. They include when appropriate a brief assessment of service need in order to make an appropriate referral and follow up services to learn the results of the referral and assess its effectiveness.

(2) The service is provided to individuals or those acting on their behalf who call or come into the office seeking information regarding resources in the community.

(3) Information and referral services may be offered to accomplish any of the five goals described in WAC 388-15-010. [Order 1238, § 388-15-110, filed 8/31/77; Order 1088, § 388-15-110, filed 1/19/76.]

**WAC 388-15-120 Adult protective services.** (1) Adult protective services are those services provided to prevent, correct, improve or remedy the situations of



adults who are neglected, abused or exploited or whose living conditions or life style is such that they are endangering their own health or safety or that of others.

(2) Services include counseling with the individuals and their friends and relatives; arranging for alternative living arrangements, assisting in the location of medical care, legal services and other community services, such as volunteer services. Homemaker or chore services or advocacy may be provided as appropriate to assure receipt of preservation of rights and entitlements due to adults at risk.

(3) Goals of Adult Protective Services shall be limited to those specified in WAC 388-15-010(1)(c), (d), (e). Also see WAC 388-15-010(2). [Order 1238, § 388-15-120, filed 8/31/77; Order 1088, § 388-15-120, filed 1/19/76.]

**WAC 388-15-130 Child protective services.** (1) Child protective services are those services provided on behalf of children who are reported to be abused, neglected or exploited or who are threatened with harm through abusive, neglectful or exploitive acts by those responsible for their health, safety and welfare. Services are given to prevent, correct, improve or remedy the situations of children who are found to be neglected, abused or exploited, including runaways.

(2) Services may also include counseling with the children and their families, or other responsible individuals, arranging for alternate living arrangements, including emergency foster care; day care; homemaker or chore service; health support services and mental health services. Services also may include referral to appropriate law enforcement agencies and petitions to courts for wardship, as well as cooperation with out-of-state child protective service agencies.

(3) See WAC 388-16-515 through 388-16-545 for mandatory reporting and central registry for child abuse. [Order 1238, § 388-15-130, filed 8/31/77; Order 1088, § 388-15-130, filed 1/19/76.]

**WAC 388-15-131 Child protective services—Special requirements for Indian children.** (1) These special requirements apply to children defined as "Indians" in WAC 388-70-091 and 388-70-450(1)(a) through (c).

(2) The ESSO shall document in case records its efforts to keep Indian families together and to avoid separating the Indian child from his parents, relatives, tribe or cultural heritage, as per RCW 26.44.010, WAC 388-15-130 and 388-70-093.

(3) In alleged child abuse and neglect situations, the ESSO shall document in case records, its efforts to utilize staff and services particularly capable of meeting the special needs of Indian children and their families, assisted by the local Indian child welfare advisory committee as per WAC 388-70-600 through 388-70-640.

(4) The ESSO shall promptly advise its Indian child welfare advisory committee and appropriate tribal council that an (unnamed) child with (named) tribal affiliation is the victim of substantiated child abuse or neglect. The provisions of RCW 26.44.070, WAC 388-15-138 and 388-70-640, limiting who has access to confidential

information, shall be followed in all cases. [Order 1255, § 388-15-131, filed 12/1/77.]

**WAC 388-15-132 Child protective services—Acceptance of reports—Eligibility for services.** Reports shall be made directly to the department's ESSO:

(1) The departmental ESSO shall accept a complaint or referral concerned with child abuse or neglect, neglect or exploitation of children from any source, including one made anonymously.

(2) Any child so reported shall be eligible for child protective services and shall remain eligible until it is determined that he is not suffering from maltreatment and his welfare is not or is no longer in jeopardy. [Order 1238, § 388-15-132, filed 8/31/77.]

**WAC 388-15-134 Child protective services—Notification—Substantiation.** (1) The department

shall notify the parents, stepparents, guardians or other persons having custody of the child or other person alleged to be the abuser that the department has received a report alleging condition(s) specified in WAC 388-15-132 unless the report is for informational purposes only because the situation has been resolved by law enforcement and/or by the courts. The identity of the person making the report to the department shall not be revealed unless that person has given permission to do so.

(2) Unless the report was for information purposes only as specified in subsection (1), the parent or parents surrogate or other alleged abuser as specified above, shall be provided the opportunity to supply information about the allegation and his situation. This person's response about the allegation and his situation including a written statement, if any, shall be a part of the department's case record.

(3) The person, if available, shall be notified that the information will be on file in the ESSO.

(4) The person, if available, shall be informed of the placement of his name as an abuser in the central registry and advised of his right to a fair hearing in accordance with chapter 388-08 WAC.

(5) The department shall determine if there is a factual basis for the report, unless the report is already substantiated or is for information purposes only.

(a) A report which contains facts about the state or condition of the child amounting to child abuse made by any person under a mandatory duty to report shall be considered substantiated and must be reported to the central registry. The substantiation of the identity of the alleged abuser shall be considered separately.

(b) Regardless of source, a report in which the facts support the conclusion(s) is to be considered substantiated. If the report is substantiated and falls within the definition of what is to be reported to the central registry, it must also be reported to the central registry. The parent or parent surrogate or other suspected/alleged perpetrator, if available, shall be notified that the information has been forwarded to the central registry.

(6) Even if the report is not substantiated, service may continue as per WAC 388-15-132. [Order 1238, § 388-15-134, filed 8/31/77.]

**WAC 388-15-136 Central registry—Definition—Duty to maintain.** (1) The "central registry" means a system of centralized storage and retrieval of case information in all substantiated instances reported to the department of nonaccidentally inflicted death, physical or mental injury or injuries (abuse), physical neglect or sexual abuse of a child or mentally retarded person of any age.

(2) Purposes of the central registry shall be to

(a) Obtain accurate information of the incidence of the abuse and neglect of children and mentally retarded persons of all ages,

(b) Make case information available in usable form on request to those persons and agencies specified in chapter 26.44 RCW. [Order 1238, § 388-15-136, filed 8/31/77.]

**WAC 388-15-137 Central registry—Reports.** Reports to be included in the central registry shall be submitted by the ESSO. Eligible persons may obtain available information by contacting the ESSO or the central registry. [Order 1238, § 388-15-137, filed 8/31/77.]

**WAC 388-15-138 Central register—Information—Release—Dissemination—Expungement.**

(1) Information provided from the central registry and from case records to the requesting persons and agencies shall not be further disseminated or released and shall be respected as confidential.

(2) Child abuse and neglect information may be released from the ESSO case record as per RCW 26.44.070. Release of other information must be considered under the provisions of WAC 388-48-010 through 388-48-100. The following information after substantiation shall be reported by the department's ESSO to the central registry and, if reported, shall be available from the central registry:

(a) The name of the "known" perpetrator, or the "suspected" perpetrator or whether the perpetrator is "unknown";

(b) The name, place of birth, and age of the child;

(c) Whether the abused is mentally retarded;

(d) Date of incident;

(e) Substantiated incident(s) of nonaccidentally inflicted

(i) Death,

(ii) Physical injury or injuries,

(iii) Physical neglect,

(iv) Sexual abuse,

(v) Mental injury (abuse and/or neglect)

(f) The name and code number of the ESSO which has additional information;

(g) The social service case number;

(h) The title and telephone number of the ESSO person to contact.

(3) Reports in the central registry shall be expunged and sealed, if after six years from the date of the last filed report, there have been no subsequent reports about the child and/or the alleged perpetrator. Reports in the central registry may also be expunged and sealed upon

the request of the reporting ESSO with the concurrence of all other reporting ESSOs, if any. Sealed records may be revived if there is a subsequent report after expungement. Sealed records about the state or condition of the child which contain no reference to the person responsible for the abuse may also be revived for purposes of treating the child.

(4) If the ESSO case record regarding the incident has not been destroyed already, this information shall be expunged and sealed at the same time as the central registry information is expunged and sealed. Information regarding the state or condition of the child may be maintained in the ESSO case record, if there is no reference to the person responsible for the abuse. [Order 1238, § 388-15-138, filed 8/31/77.]

**WAC 388-15-139 Central registry—Eligibility—Procedures and criteria.** Those research persons, agencies or organizations referred to in chapter 26.44 RCW seeking to gain access to the central registry shall:

(1) Apply in writing to the secretary of DSHS requesting consideration to become eligible to receive central registry information under the provisions of RCW 26.44.070 and this section.

(2) Provide documentation that the applicant is:

(a) A bona fide researcher: by enclosing a statement of educational background, degrees granted and other achievements; professional and employment affiliations; licensing, if appropriate; and the research proposal; or

(b) A bona fide agency/organization whose activities deal with prevention, diagnosis and treatment of child abuse and neglect now engaging in research by enclosing articles of incorporation; by-laws; project proposal or statement of goals and objectives; contracts for funding and/or service; and the research proposal. [Order 1238, § 388-15-139, filed 8/31/77.]

**WAC 388-15-140 Placement services.** (1) These are those services necessary to select the appropriate community or institutional placement to meet the particular needs and desires of eligible individuals, including placement in family homes for adults, CCFs, ICFs, and SNFs and periodically reviewing the placement for appropriateness. Close cooperation with the department's nursing care consultants is essential to be certain that individuals with medical problems are placed, or replaced in settings where their medical needs are most appropriately and adequately met.

(2) Resource development is also an inevitable part of this service, since appropriate placements in family homes, congregate care facilities, or ICFs cannot be made if no such resources exist in the community or adjacent communities. Hence, recruiting, studying and licensing or approving family homes for adults is an integral part of placement services, as well as encouraging the development of CCFs and ICFs.

(3) Goals for Placement Services shall be limited to those specified in WAC 388-15-010(1)(a) through (e). Also see WAC 388-15-010(2). [Order 1238, § 388-15-140, filed 8/31/77; Order 1147, § 388-15-140, filed 8/26/76; Order 1088, § 388-15-140, filed 1/19/76.]

**WAC 388-15-150 Child foster care.** (1) Foster care is 24-hour substitute care provided for children under 18 years of age whose parents cannot or will not care for them or who cannot live with their own families because of conditions which threaten the healthy and development of the child.

(2) This service includes services to reunite families and children. Placement services include assessment of child's need for such placement, determining eligibility for foster care, counseling services with, or on behalf of, individuals and their families to remedy the need of foster care or plan for stable long-term, substitute care; follow-up services to the child in his own home after replacement there; services to aid children who reach their majority while in foster care to become self sufficient; and the interstate placement of children according to the requirements of the Interstate Compact on Placement of Children, and including a determination of their eligibility in both states.

(3) This service also includes staff activities in recruitment, study and licensing of foster care facilities, including foster family homes and group care facilities (including voluntary agency group homes and institutions) in the placement process (i.e., "matching" individuals and foster care facilities); supervision of those homes studied and licensed by the department; monitoring of other facilities or agencies (group homes and voluntary agency institutions licensed by the department); periodic reevaluation of the home or facility.

(4) Goals for Child Foster Care shall be limited to those specified in WAC 388-15-010(1)(b) through (e). Also see WAC 388-15-010(2).

(5) See also WAC 388-70-010 and following. [Order 1238, § 388-15-150, filed 8/31/77; Order 1088, § 388-15-150, filed 1/19/76.]

**WAC 388-15-160 Adoption services.** (1) Adoption services are those which counsel biological parents and children to achieve permanent families (legal and social) for children; utilize courts, legal counsel and juvenile court specialist for termination of parental rights and granting of adoption petitions; obtain diagnostic information for the total medical/social evaluation of children; recruit, study and approve adoptive families; evaluate child and foster parents or place children with approved waiting families; counsel and/or refer families and children after placement to facilitate the adoption, or make alternate plans when the adoption placement is not beneficial to the child and/or family; locate and exchange (state and nationally) children and adoptive families and administer the state's adoption subsidy for private agencies and the department.

(2) The department shall administer the Interstate Compact on the movement of dependent children and shall cooperate, upon request, with other state public agencies in the adoptive planning for children.

(3) Goals for Adoption Services shall be limited to those specified in WAC 388-15-010(1), (a), (c). Also see WAC 388-15-010(2).

(4) Other activities performed within this service shall be:

Maintenance and operate the department's central exchange and the Washington adoption resource exchange for families and children, coordinate with other regional or national exchanges, administer the adoption support program and prepare children and families for adoptions utilizing this program.

(5) See also WAC 388-70-510 and following. [Order 1238, § 388-15-160, filed 8/31/77; Order 1088, § 388-15-160, filed 1/19/76.]

**WAC 388-15-170 General day care services.** (1) Day care services include providing care and protection and related services for a child under 15 years of age during that portion of the 24 hour day that the child's parents are unable to provide necessary care and supervision for the following reasons:

(a) parent is employed or seeking employment in accord with an approved case plan,

(b) parent is enrolled in an approved training program (not to exceed two years) leading toward employment,

(c) for school age parent to complete secondary education or attainment of G.E.D. (not to exceed two years), subject to approval by the department,

(d) for AFDC recipient to serve as a volunteer either on DSHS advisory board or to attain pre-employment skills, subject to approval by the department,

(e) for AFDC parent enrolled in a prevocational program subject to approval by the department,

(f) parent to keep physical or mental health appointment,

(g) child in need of day care as part of children's protective service case plan.

(h) refugees enrolled in English as a second language class, driver's education program or vocational education program.

(i) provided as child welfare services by a professional or other mental health social service agency referral for the child or parents physical/emotional health or support to the family structure.

(2) Goals for General Day Care Services shall be limited to those specified in WAC 388-15-010(1)(a), (b), (c). Also see WAC 388-15-010(2). Also see WAC 388-75-203 through 388-75-396.

(3) Child care, including Migrant Day Care, may be purchased for children or families who are:

(a) Individuals whose gross income is equal to or below 38 percent of the state median gross income for a family of four adjusted for family size. (See WAC 388-15-020(2)(d))

(i) Exception: Residents on federally recognized Indian Reservations whose gross income is equal to or below 80% of the state median income for a family of four adjusted for family size, shall be eligible for general child day care services.

(ii) Exception: Those refugees covered under the Refugee Assistance Act of 1975, who attend an approved English as a second language class, driver's education program or vocational education program are eligible for day care services whose gross family income is at or below 80% of the state median income for a family of four adjusted for family size.

(b) In need of day care as an integral but subordinate part of a child protective service plan, regardless of the level of gross family income.

(4) Standards for in-home care.

(a) In-home care is the care and supervision of a child in his own home by a relative or by an unrelated person during part of the 24-hour day while the child's parents are temporarily absent from the home.

(b) When parents request in-home care, a service worker must determine that the caretaker meets the in-home care standards.

(c) Use of in-home care is appropriate when:

(i) There is a qualified caretaker available, and this type of child care is the parental choice,

(ii) The number of children in the family requiring child care is large enough to make it preferable for in-home care and/or,

(iii) A child's physical, mental or emotional problems make it necessary that he remain in his home.

(d) When in-home care is the approved child care plan for the child of a parent involved in basic education, job training, work experience, or other program which DSHS is responsible for arranging, approving or paying, the caretaker must meet the following minimum qualifications and fulfill the following responsibilities:

(i) Be eighteen years of age or older,

(ii) Be free of communicable disease, including tuberculosis, as shown by tests within the year, and every two years thereafter,

(iii) Be of sufficient physical, emotional and mental health to meet the needs of the children in care,

(iv) Subject to the discretion of the worker, give written evidence from a medical authority that he or she is in sufficient physical, emotional and mental health to be a safe caretaker,

(v) Produce written references indicating that she is capable of handling children of the ages for whom she will be caring and has the ability to provide activities suitable to their ages and interests.

(vi) Be able to work with children without recourse to physical punishment or psychological abuse,

(vii) Be able to accept and follow instructions,

(viii) Maintain personal cleanliness,

(ix) Be prompt and regular in job attendance,

(x) Expect to be evaluated on the above items.

(e) Responsibilities of in-home caretaker - in-home caretaker shall:

(i) Consider her primary function that of child care,

(ii) Provide constant care and supervision of the children for whom she is responsible throughout the time she is on duty in accordance with their needs,

(iii) Provide appropriate activities for children in care.

(5) Payment standards for day care: The rate of payment for day care shall be the prevailing community rate, not to exceed the maximum rate established by the department.

(a) When the parent or parent surrogate is responsible for in-home care, that person will receive payment for the cost of child care and will pay the in-home care provider according to the amount specified in the approved child care plan.

(b) The in-home care provider must sign a receipt at the time that payment is received. The parent/surrogate must send this receipt with his or her statement of child care provided during the previous month to the ESSO before the next child care payment shall be authorized.

(c) If total payments to an individual providing in-home care are expected to be \$50 or more in any one quarter, the employer's share of the FICA tax must be added to the amount authorized for in-home care.

(d) Payment for child care by relative: Unless the performance of child care services by a relative of the parent keeps the relative from accepting or continuing in paid employment, no payment shall be allowed for child care services for the following relatives: father, mother, grandmother, grandfather, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece. Child care will be considered as in-home care when care is provided in the house of the relative.

(e) Payment for child care to nonresponsible relative: Where a child receiving AFDC is living with a nonresponsible relative not on AFDC and day care is required to support the relative's employment, the child is eligible for day care. [Order 1238, § 388-15-170, filed 8/31/77; Order 1204, § 388-15-170, filed 4/1/77; Order 1147, § 388-15-170, filed 8/26/76; Order 1124, § 388-15-170, filed 6/9/76; Order 1120, § 388-15-170, filed 5/13/76; Order 1088, § 388-15-170, filed 1/19/76.]

#### **WAC 388-15-190 Day care for the aged—Age**

**60 and over.** (1) Day care services are a program of services provided at three locations in the state for aged people who do not require 24-hour institutional care, but due to physical and/or mental impairment are not capable of full-time independent living. Services include nursing service and rehabilitative services, such as occupational therapy, physical therapy and speech therapy; personal care services, i.e., assistance with walking, eating, toileting, grooming, social work services; recreational and social activities. Each center will also provide a hot meal at noon and necessary transportation for participants.

(2) Goals for Day Care for the Aged shall be limited to those specified in WAC 388-15-010(1)(c), (d). Also see WAC 388-15-010(2). [Order 1238, § 388-15-190, filed 8/31/77; Order 1088, § 388-15-190, filed 1/19/76.]

#### **WAC 388-15-200 Health support services.** (1)

Health support services are services to direct individuals and families to physicians and other health services to help them to attain and maintain a favorable condition of health. Such services also include helping them to identify and understand their health needs, seek medical aid and follow through on medical recommendations. Part of the service may be contacting relatives and friends to enlist their help and encouragement in supporting individuals in following through on their health plans; coordination with Title XIX services or contacting

physicians or other health providers to gain a better understanding of the client's medical situation. Where appropriate, arranging for homemaker service, chore service, home nursing, health aides, or home delivered meals may be a component of health support services. Early and periodic screening, diagnosis and treatment is a mandatory health support service for eligible individuals under age 21 to evaluate their state of health and to detect and correct medical conditions that would interfere with their future health.

(2) Goals for Health Support Services shall be limited to those specified in WAC 388-15-010(1)(a) through (e). Also see WAC 388-15-010(2) and 388-95-275. [Order 1238, § 388-15-200, filed 8/31/77; Order 1147, § 388-15-200, filed 8/26/76; Order 1088, § 388-15-200, filed 1/19/76.]

**WAC 388-15-210 Chore services for adults and families.** (1) Chore services consist of tasks in the performance of light work, household care or personal care which an eligible blind, aged, disabled or incapacitated person is unable to provide for himself; and for whom there are no free community resources or family members available to provide the service.

(2) Goals for Chore Services for Adults and Families shall be limited to those specified in WAC 388-15-010(1)(b), (c), (d). Also see WAC 388-15-010(2).

(3) Chore services does not include tasks which require the services of a trained homemaker, other specialist or a licensed practitioner.

(4) Chore services are purchased when the person:

(a) cannot continue to remain in or return to his own home without the service, and

(b) cannot receive the needed service without cost.

(5) Clients "own home" is defined as his intended place of residence whether this is in a building rented or owned by client, or in the home of another person. The services are provided within the confines of the home property except for necessary shopping, essential errands, and transportation necessary for completion of authorized services. [Order 1238, § 388-15-210, filed 8/31/77; Order 1147, § 388-15-210, filed 8/26/76; Order 1124, § 388-15-210, filed 6/9/76; Order 1088, § 388-15-210, filed 1/19/76.]

**WAC 388-15-211 Chore services for families.** Chore services for families are provided when the normal caretaker of the children:

(1) Is in the home (except for a temporary period) and retains responsibility for direction and management of the children, but,

(2) Is physically unable to perform the necessary household services and/or physical care of children without assistance. [Order 1238, § 388-15-211, filed 8/31/77.]

**WAC 388-15-213 Payment.** (1) Payment may be made to a spouse, father, son or daughter when he or she has to give up paid employment to give the service, or would need to take paid employment, or receive general assistance to meet his own financial need.

(2) The monthly standard for chore service shall be the actual hourly or monthly cost (including FICA tax when applicable) but not to exceed the prevailing rate.

(3) The monthly standard for chore service payment to the spouse providing chore services to an incapacitated eligible client shall not exceed the amount of her requirements if she were eligible for a continuing general assistance grant.

(4) When the eligible person provides meals, or a "live-in" arrangement as part of the case plan providing for supervised living, a payment may be made to cover the cost of the meals; or the expenses associated with a "live-in" arrangement. The payment shall not exceed an allowance established by the department and shall be prorated by days of service. [Order 1238, § 388-15-213, filed 8/31/77.]

**WAC 388-15-215 Limitations on program.** (1) Chore Services is not a teaching or companionship program and cannot be used for the purpose of delivering skilled nursing care or developing social, behavioral, recreational, communication or other type skill.

(2) Chore Services cannot be approved in a group home, CCF, ICF or SNF, and can be provided in an adult family home or foster home only on an emergency, time-limited basis. Shared living arrangements are not considered group living.

(3) Chore Services is provided for the person needing the service, not for other household members unless they are part of the total chore service plan which includes them as eligible service clients. Services include arranging for eligible individuals to receive chore services, and providing information about individuals in need of chore service to community resources. [Order 1238, § 388-15-215, filed 8/31/77.]

**WAC 388-15-220 Homemaker service.** (1) Homemaker services are services to individuals and families in their own homes or in special group situations outside their homes which will help individuals overcome specific and temporary barriers to maintaining, strengthening, and safeguarding their functioning in the home. Services include the casework functions of determination of need for service, the development with the clients, of a service plan, and ongoing evaluation of that plan during the period of placement. Homemaker services also include the direct provision of, as well as the formal and informal teaching of, limited personal care, home management of household budgets, maintenance and care of the home, food preparation and nutrition, the supervision and development of children and adults unable to care for themselves, and information and referral regarding community resources to improve home and family functioning. These services may be directed toward adult and children's protective services situations, and include the observation, evaluation and reporting of individual functioning in the home.

(2) Goals for Homemaker Services shall be limited to those specified in WAC 388-15-010(1)(a) through (e). Also see WAC 388-15-010(2). [Order 1238, § 388-15-220, filed 8/31/77; Order 1088, § 388-15-220, filed 1/19/76.]

**WAC 388-15-230 Employment oriented casework.** Employment oriented casework services are to assist selected individuals to self-support. Services are limited to the following:

(1) Short-term employment oriented casework services to employable applicants/recipients of a financial grant.

(a) WIN areas. Participation in employment oriented casework shall be mandatory for an AFDC-E not accepted into a WIN component or status.

(b) Non-WIN areas. Participation for all AFDC-Es shall be mandatory. All applicants for an AFDC-E grant shall be interviewed by the Employment and Training Unit and when feasible be referred to employment prior to the opening of a financial grant.

(c) Any recipient of a financial grant may volunteer for employment oriented casework services. Participation by such a volunteer shall not be an eligibility factor.

(2) The Employment and Training Unit will classify all employables and volunteers into one of three categories:

(a) Recipients who are job ready, available for referral to existing employment opportunities.

(b) Recipients with a minimum need for short-term casework services. Services may include assignment to group casework and short-term vocational training.

(c) Recipients with long term casework problems, not presently employable in the current labor market. [Order 1238, § 388-15-230, filed 8/31/77; Order 1165, § 388-15-230, filed 10/27/76; Order 1105, § 388-15-230, filed 3/11/76.]

**WAC 388-15-240 Family planning.** (1) Family planning services are those services which enable individuals including minors and handicapped persons, to make choices regarding the number and spacing of children. These services include outreach, information, referral, support services (such as transportation and child care), counseling, education, medical care and follow-up. Family planning medical services include physical examinations, lab tests, diagnosis, treatment, surgical procedures as appropriate, drugs, supplies, devices furnished, prescribed by or under the supervision of a physician.

(2) Goals for Family Planning shall be limited to those specified in WAC 388-15-010(1)(a) through (e). Also see WAC 388-15-010(2).

(3) Family Planning is a federally mandated service offered to all appropriate persons in the Aid to Families of Dependent Children program and also to any appropriate individual who meets the state's financial eligibility requirements (including anyone who within three months has been an applicant for or a recipient of AFDC (see WAC 388-15-020(1)(e)(i).) Services will be provided promptly to all of the foregoing individuals who voluntarily request such services. [Order 1238, § 388-15-240, filed 8/31/77; Order 1204, § 388-15-240, filed 4/1/77; Order 1147, § 388-15-240, filed 8/26/76; Order 1088, § 388-15-240, filed 1/19/76.]

**WAC 388-15-290 Juvenile delinquency prevention services.** (1) Services to families whose child(ren) are

pre-delinquent or have not established patterns of persistent delinquent behavior. These services are: direct casework using conjoint family treatment, individual treatment, group treatment, activity group work, and crisis intervention.

(2) Goals for Juvenile Delinquency Prevention Services shall be limited to those specified in WAC 388-15-010(1)(d)(e). Also see WAC 388-15-010(2). [Order 1238, § 388-15-290, filed 8/31/77; Order 1088, § 388-15-290, filed 1/19/76.]

**WAC 388-15-300 Developmental disabilities case services.** (1) Provides specialized programming to those developmentally disabled persons not living in the developmental disabilities institutions and requiring services. Assisting developmentally disabled individuals and their relatives in finding out-of-home alternative residential settings, developing additional placement resources and monitoring institutional preplacement clients.

(2) Goals for Developmental Disabilities for Services shall be limited to those specified in WAC 388-15-010(1)(a), (b), (d), (e). Also see WAC 388-15-010(2). [Order 1238, § 388-15-300, filed 8/31/77; Order 1088, § 388-15-300, filed 1/19/76.]

**WAC 388-15-310 Developmental disabilities home (aid) services.** (1) Home (aid) resource services assists developmentally disabled individuals and their families through professional and paraprofessional home training visits which provide for parent and client training in needed therapies, general health, hygiene, and nutritional programming, and intensive skill training. Services also include assisting in the location, mobilization or development of community resources and may include arranging for other department services, such as homemaker services, chore services or day care services, and further, educating the public of the rights to such services through information and referral efforts.

(2) Goals for Developmental Disabilities Home (Aid) Services shall be limited to those specified in WAC 388-15-010(1)(c), (d). Also see WAC 388-15-010(2). [Order 1238, § 388-15-310, filed 8/31/77; Order 1088, § 388-15-310, filed 1/19/76.]

**WAC 388-15-320 Developmental center services.** (1) Provides individuals who have a developmental disability with day training programs designed to promote the individual development of motor, communication, recreation, behavioral, vocational and social skills. The provider agencies may provide a variety of programs to include infant stimulation, early childhood education, adult developmental education, recreational and leisure time programs, physical and occupational therapy, self-help skills, survival skills, housekeeping training and prevocational training.

(2) Goals for Developmental Center Services shall be limited to those specified in WAC 388-15-010(1)(b), (c). Also see WAC 388-15-010(2). [Order 1238, § 388-15-320, filed 8/31/77; Order 1088, § 388-15-320, filed 1/19/76.]

**WAC 388-15-330 Sheltered workshops.** (1) Sheltered workshop services are expected to result in the eventual placement of handicapped clients into gainful employment. Such services are provided to enable clients to become self supporting or self sufficient. A variety of services such as medical, dental, psychiatric, training, transportation, etc. are provided or arranged for by vocational rehabilitation division staff and other services are provided to clients in the work environment of vendor sheltered workshop facilities.

(2) Goals for Sheltered Workshops shall be limited to those specified in WAC 388-15-010(1)(a), (b). Also see WAC 388-15-010(2). [Order 1238, § 388-15-330, filed 8/31/77; Order 1088, § 388-15-330, filed 1/19/76.]

**WAC 388-15-340 Alcoholism treatment.** (1) Three types of alcoholism treatment will be provided under Title XX; "Alcohol Detoxification," "Intensive Alcoholism Inpatient Treatment" and "Alcoholism Long-term Treatment." All are residential treatment services but they differ with regard to the specific treatment needs of the client. These services are provided either by private nonprofit agencies or by public (county) agencies. Funding is provided through purchase of service contracts with the department.

(a) Detoxification Services

This emergency service is provided for persons who are incapacitated by alcohol or suffering from the withdrawal from alcohol. It is a residential program of one to three days for the average client and is provided in special detoxification centers (detoxification provided in general hospitals will not be covered under Title XX). Detoxification provides an important first stage in the continuum of treatment services for recovery from alcoholism.

(b) Intensive Alcoholism Inpatient Treatment

A residential alcoholism treatment program of 21 to 28 days that assists a person in achieving and maintaining abstinence from alcohol through education, group counseling and individual counseling which is aimed at resocialization and understanding of the nature of the illness.

(c) Alcoholism Long-term Treatment

Long-term Alcoholism Treatment is a residential treatment program involving an average of 120 days of physical and emotional rehabilitation therapy, evaluation of rehabilitation needs and the ability to benefit from treatment, education on alcoholism, resocialization counseling and individual and group counseling on alcoholism recovery. A great deal of emphasis is put on occupational and work therapy.

(2) Goals for Alcoholism Treatment shall be limited to those specified in WAC 388-15-010(1)(a) through (e). Also see WAC 388-15-010(2). [Order 1238, § 388-15-340, filed 8/31/77; Order 1088, § 388-15-340, filed 1/19/76.]

**WAC 388-15-360 Refugee assistance.** (1) This service includes English as a Second Language (ESL), information and referral, employment oriented casework services, vocation training, and driver education and safety. ESL consists of basic literacy training in the

English language, transportation costs and child care when needed. Employment oriented casework services include counseling and orientation, registration, job development, placement and follow-up of employable refugees. Vocational training includes any organized curriculum in a school or training unit or organized training plan under recognized sponsorship with a specific training objective, job development, and transportation costs and child care as approved by the Department, which reasonably will result in gainful employment.

(2) Goals for Refugee Assistance shall be limited to those specified in WAC 388-15-010(1)(a), (b). Also see WAC 388-15-010(2). See also chapter 388-55 WAC. [Order 1238, § 388-15-360, filed 8/31/77; Order 1204, § 388-15-360, filed 4/1/77; Order 1147, § 388-15-360, filed 8/26/76; Order 1124, § 388-15-360, filed 6/9/76.]

**WAC 388-15-400 Services to individuals released from mental hospitals or in danger of requiring commitment to such institutions.** (1) These services are those services necessary to enable eligible individuals age 65 or over to remain in the community in lieu of care in a mental hospital, or upon release from a mental hospital, to return to and live in the community. Services may also be provided to recipients of AFDC who are being released from mental institutions.

(2) Necessary adult services shall be provided to beneficiaries of SSI, recipients of Title XIX, and other individuals whose income does not exceed the standard in WAC 388-15-020 who:

- (a) are released from a mental hospital, or
- (b) need alternate care to continue to live in the community.

(3) Services provided to accomplish the objective to assist the recipient to maintain or be restored to the greatest possible degree of independent functioning and self help shall be any appropriate adult services described in WAC 388-15-100 through 388-15-400.

(4) Services to be provided to accomplish this objective for recipients of AFDC age 21 or under being released from mental institutions shall be any appropriate family or childrens service described in WAC 388-15-100 through 388-15-400.

(5) See also Chapter 388-95 WAC. [Order 1088, § 388-15-400, filed 1/19/76.]

**WAC 388-15-500 Redetermination of service eligibility.** Eligibility for all services shall be redetermined:

(1) When the ESSO has received information about anticipated changes in the individual's situation.

(2) No more than thirty days after the ESSO has received information that a change has occurred in the individual's circumstances which may make him ineligible.

(3) Periodically, but no less frequently than every six months, except that for individuals whose gross monthly income at the time of determination is derived exclusively from pensions or social security benefits or SSI or a combination thereof or in group eligibility where the individuals conditions or characteristics are not apt to

change substantially (such as physical disability), re-termination may be made at 12 month intervals. [Order 1238, § 388-15-500, filed 8/31/77; Order 1088, § 388-15-500, filed 1/19/76.]

**WAC 388-15-550 Service delivery.** The services provided under this chapter may be provided by department staff or by purchase of service. Services are purchased by the department at rates set by the department from agencies or facilities determined by the department as providing an acceptable quality of service. [Order 1238, § 388-15-550, filed 8/31/77; Order 1147, § 388-15-550, filed 8/26/76; Order 1124, § 388-15-550, filed 6/9/76; Order 1088, § 388-15-550, filed 1/19/76.]

**WAC 388-15-560 Congregate care—Definition.** A congregate care facility is a licensed boarding home or alcoholism treatment facility which has entered into a congregate care contract with the department. [Order 1238, § 388-15-560, filed 8/31/77.]

**WAC 388-15-562 Congregate care—Eligible persons.** Persons are eligible to receive congregate care who:

- (1) are beneficiaries of supplemental social security and state supplementation or who are recipients of continuing general assistance;
- (2) do not require medical or nursing services;
- (3) are unable to maintain a safe environment in an independent living arrangement, or minimal supervision is required and the person requires assistance with activities of daily living. [Order 1238, § 388-15-562, filed 8/31/77.]

**WAC 388-15-564 Congregate care—Determination of need.** The department, after consultation with the individual, shall determine if the individual requires congregate care. Consideration will be given to other alternative care arrangements. [Order 1238, § 388-15-564, filed 8/31/77.]

**WAC 388-15-566 Congregate care—Placement in facility.** Selection of a congregate care facility is to be made by the individual, or his/her relatives or others acting on his/her behalf from those facilities having available beds. [Order 1238, § 388-15-566, filed 8/31/77.]

**WAC 388-15-568 Congregate care—Payment—Standards—Procedures.** All nonexempt income of a person placed in a congregate care facility shall first be applied to the person's clothing, personal maintenance and necessary incidentals. Any remaining nonexempt income shall be applied to the cost of the congregate care. [Order 1238, § 388-15-568, filed 8/31/77.]

**WAC 388-15-570 Services to children in own home.** (1) These social services are focused on helping children and families who reside in their own homes to solve their problems and avoid unnecessary separation of child from his family. Services will provide casework intervention and counseling with parents and children where the

children (by their behavior) indicate that they are having problems with their parent-child relationships, serious health problems (physical and emotional), adjustment to society, including peer relationships. These services will be intensive short term, goal oriented services limited to 90 days. After the end of the 90 day period an assessment will be made to determine if services should be continued, case referred, transferred or terminated. Services will be offered those children now defined as status offenders, dependent-incorrigibles, and others seeking to make an adjustment within the home.

(2) Goals for Services to Children in Own Home shall be limited to those specified in WAC 388-15-010(1)(b), (c), (d). Also see WAC 388-15-010(2). [Order 1238, § 388-15-570, filed 8/31/77.]

**WAC 388-15-580 Support services.** (1) Support services include activities required to support the determination of eligibility for financial, medical or special need assistance. It also includes casework activities required as support functions to recipients of assistance programs.

(2) Eligibility for this service is limited to those who are applying for or receiving financial or medical assistance.

(3) Goals for Support Services shall be limited to those specified in WAC 388-15-010(1)(a), (b), (d). Also see WAC 388-15-010(2). [Order 1238, § 388-15-580, filed 8/31/77.]

## Chapter 388-17 WAC

### SENIOR CITIZENS SERVICES PROGRAM

#### WAC

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**WAC 388-17-010 Legal basis for senior citizens services program.** The Senior Citizens Services Act authorizes the department of social and health services office on aging to develop and/or expand programs of alternative care services in order to more appropriately meet the care needs of senior citizens. [Order 1174, § 388-17-010, filed 11/30/76.]

**WAC 388-17-020 Definitions.** (1) All terms used in this chapter which are not defined herein shall have the same meaning as indicated in the Senior Citizens Services Act.

(2) Alternative care – care designed to reduce the incidence of institutionalization by maximizing in-home



care to assist individuals to reach and maintain the highest practical level of independence.

(3) Declaration – a signed statement, attesting to an individual's age, income, resources and need for services.

(4) Impairment – the presence of a physical, mental or other condition which reduces and individual's ability to function independently.

(5) Income – (see also WAC 388-17-160) – any appreciable gain in real or personal property (cash or kind) received by an applicant or recipient after applying for the senior citizens services program, which can be applied toward meeting the requirements of the applicant or recipient and the applicant's or recipient's dependents.

(6) Low income – income at or below forty percent of the state median income as determined by Title XX of the Social Security Act and resources at or below the amount specified in WAC 388-17-160.

(7) Need – financial – the difference between the cost of a service or services and the amount of payment, if any, to be made by a recipient, as determined by the fee schedule referred to in WAC 388-17-180.

(8) Resource – (see also WAC 388-17-160) – any real or personal property owned by or available to an applicant at the time of application for the senior citizens services program, which can be applied toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent. [Order 1174, § 388-17-020, filed 11/30/76.]

#### **WAC 388-17-030 Description of program—**

**Purpose.** The purpose of the senior citizens services program is to provide the level of alternative care services needed to restore eligible senior citizens to or maintain them at an optimum level of independent living. [Order 1174, § 388-17-030, filed 11/30/76.]

**WAC 388-17-040 Scope.** The senior citizens services program shall be available as a demonstration project to eligible senior citizens throughout the state. The level of services available in each planning and service area shall be determined by the assessment of service needs developed by the area agency on aging and approved by the office on aging. [Order 1174, § 388-17-040, filed 11/30/76.]

**WAC 388-17-050 Administration.** (1) The senior citizens services program shall be administered by the department of social and health services office on aging through contracts with twelve area agencies on aging, and/or service providers for project demonstrations.

(a) Each area agency or service provider shall submit an area plan to the office on aging for approval specifying the manner in which the senior citizens services program will be implemented in its area.

(b) Funds shall be awarded to the area agencies or service providers upon approval of the area plans.

(2) Funds will be allocated to the area agencies in the following manner:

(a) An amount of administrative funds determined by the department of social and health services office on aging.

(b) Whereas ten percent of the nonadministrative balance shall be apportioned according to the geographical size of each area, ninety percent shall be allocated in proportion to the sum total of persons aged 60 years or more, plus minority persons aged 60 years or more, plus persons with incomes below the poverty level and aged 60 years or more in that area.

(3) It shall be the responsibility of each area agency to:

(a) Coordinate each service in their planning and service area so that eligible persons receive the appropriate number and kinds of services without duplication of services.

(b) Determine locations and contract for service providers.

(c) Monitor all service contracts and assess the quality of services provided.

(d) Disburse revenues for payment of services provided.

(e) Submit in the manner prescribed by the department such program and fiscal data as required for adherence to all applicable federal and state standards for financial management of grants.

(4) It shall be the responsibility of the department of social and health services office on aging to:

(a) Establish program standards and provide guidelines for implementation of each service available under the Senior Citizens Services Act.

(b) Provide technical assistance to area agencies and service providers.

(c) Monitor the performance of area agencies.

(d) Provide a comprehensive evaluation of the effectiveness of the program.

(e) Coordinate with other programs and services authorized by the department that serve the elderly. [Order 1174, § 388-17-050, filed 11/30/76.]

**WAC 388-17-100 Rights and responsibilities of applicants and recipients.** (1) Each applicant and/or recipient of the senior citizens services program shall have the following rights:

(a) Any individual wishing to do so shall have the right to apply for the senior citizens services program and have his or her eligibility determined.

(b) An eligible individual shall be given the requested services, within the limits of available funds, which are offered by the area agency on aging in his or her geographic area.

(c) An applicant or recipient who feels aggrieved by a decision of the department, area agency or service provider regarding his or her eligibility for senior citizens services shall have the right to a fair hearing to be conducted in accordance with chapter 388-08 WAC. Any person who desires a fair hearing must within thirty days after receiving written notice of a decision make written request for a hearing to the secretary of the department. The notice of eligibility shall include a statement of the reasons upon which an unfavorable decision is based and a statement of the individual's right to a hearing, and a statement of the individual's right to representation of the hearing by a friend, relative or other representative.

(d) Information obtained by the department, area agency or vendor concerning any applicant or recipient of senior citizens services is confidential and privileged and may not be disclosed or used either directly or indirectly in any manner or for any purpose except for purposes directly related to the administration of the program, unless the applicant or recipient requests in writing that the information be disclosed.

(e) Each applicant and recipient shall be treated with dignity and courtesy and there shall be no discrimination against any individual because of race, sex, religious creed, political beliefs or national origin.

(f) Each applicant shall be fully informed in writing of his or her rights and responsibilities in connection with the senior citizens services program.

(2) An applicant and/or recipient shall have the following responsibilities:

(a) Each applicant shall provide complete and accurate information on an application form provided by the department and cooperate in establishing his or her eligibility for services.

(b) If services provided by the senior citizens services program are available at no cost to the applicant through other sources, the applicant shall apply for these services through the appropriate agency.

(c) Each recipient shall promptly report any changes in income or resources in writing which may affect his or her eligibility or amount of fees to be paid for services. [Order 1174, § 388-17-100, filed 11/30/76.]

**WAC 388-17-120 Eligibility for senior citizens services—Application.** (1) An application for the senior citizens services program is a request in writing made by an individual on his or her own behalf or in behalf of another person on a form specified by the department.

(2) An application shall be accepted from anyone who wishes to apply and shall be acted upon within ten days.

(3) An application shall contain a signed declaration that the information contained in the application is true, correct and complete to the best of the applicant's knowledge.

(4) Eligibility shall be determined on the basis of the declaration of circumstances contained in the application, in accordance with the rules of the department contained in this chapter.

(5) Each applicant shall be given a notice of eligibility. [Order 1174, § 388-17-120, filed 11/30/76.]

**WAC 388-17-140 Eligible persons.** (1) To be eligible for senior citizens services, an individual must be:

(a) Sixty years of age or older.

(i) An individual between the ages of 60 and 65 must be either unemployed or employed for no more than twenty hours per week.

(ii) An individual 65 or older may be eligible regardless of the hours of employment.

(b) In need of services because of physical, mental or other impairments, to enable him to remain in his or her own home.

(i) An individual statement of his or her impairments shall be accepted without medical evidence.

(2) Individuals whose income and resources are at or below the amounts specified in WAC 388-17-160 shall be eligible for services at no cost.

(3) Individuals whose income exceeds the maximums specified in WAC 388-17-160 shall participate in the cost of services to the extent specified in the fee schedule published by the office on aging.

(4) Individuals whose resources exceed the maximums specified in WAC 388-17-160 shall be eligible to purchase services at full cost.

(5) Eligibility and the amount of client participation shall be determined whenever any change in income and/or resources is reported. If a change is reported by someone other than the recipient, the information shall be confirmed with the recipient before action is taken with regard to the recipient's eligibility or amount of participation. [Order 1174, § 388-17-140, filed 11/30/76.]

**WAC 388-17-160 Income and resources.** (1) An individual whose income is at or below forty percent of the state median income for a family of four adjusted for family size, as determined by Title XX of the Social Security Act, and whose resources are at or below the limits specified in this section shall be eligible for services at no cost.

(a) The following shall be disregarded in determining the income and resources of an applicant or recipient:

(i) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(ii) The value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons.

(iii) The value of the U.S. department of agriculture donated foods (surplus commodities).

(iv) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended.

(v) Any compensation provided to volunteers in ACTION programs established by Titles I, II, and III of Public Law 93-113, the Domestic Volunteer Services Act of 1973.

(vi) Any payment received from a foster care agency for children in the home.

(vii) Garden produce[,] livestock and poultry used for home consumption.

(viii) Any real property held in trust for an individual Indian or Indian Tribe.

(2) Effective October 1976, the state median income for a family of four is \$15,401. Forty percent is \$6,160.

(a) Family means a single individual or two or more persons related by blood, marriage or adoption, residing in the same household.

(i) Husband and wife are considered a two-person family.

(ii) Related individuals residing together who are not dependent on the income of only one of the individuals are each considered a separate family.

(iii) An individual living with unrelated persons only is considered a one-person family.

(b) Income tables for forty percent of median income.

Number In Family Unit	Monthly Income	Annual Income
1	\$266	\$3,203
2	348	4,189
3	431	5,174
4	513	6,160
5	595	7,146
6	677	8,132

For each additional family household member, add \$15 for monthly income, or \$180 for annual income.

(3) Income means any real or personal property in cash or kind received by an applicant or recipient after applying for the senior citizens services program which is available to meet the requirements of the applicant or recipient and his or her dependents.

(a) Earned income means income in cash or kind earned as wages, salary, commissions or profit from activities in which an individual is engaged as a self-employed person or as an employee.

(b) Unearned income means all other income, including but not limited to, payments for maintenance or support, social security, supplemental security income, veterans' benefits, public assistance, pension, retirement benefits, military benefits, unemployment compensation, industrial accident payments, Indian payments, money from the sale of property, rentals, insurance payments, relatives or any other source.

(4) Resources mean all real or personal property owned by or available to an applicant at the time of application which can be applied toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent. Property that is available shall mean property over which the applicant has legal right of control.

(a) The following resources, regardless of value, shall not be considered in determining the value of an applicant's or recipient's resources:

(i) A home and lot normal for the community.

(ii) Used and useful household furnishings, personal clothing, and automobiles.

(iii) Personal property of great sentimental value.

(iv) Other personal property, such as tools, machinery, livestock or business equipment used by the applicant or recipient to earn income or to rehabilitate himself.

(v) One cemetery plot for each member of the family unit.

(vi) Cash surrender value of life insurance.

(b) The total value of all other resources including cash, marketable securities, and real or personal property shall not exceed \$10,000.00 for a single person or \$15,000.00 for a family of two. This maximum shall be increased by \$1,000.00 for each additional member of the family unit. [Order 1174, § 388-17-160, filed 11/30/76.]

**WAC 388-17-180 Fee schedule.** (1) Eligible persons whose income and/or resources exceed the limits specified in WAC 388-17-160 for free services shall be responsible for payment of the total, or a percentage, of

the cost for each service provided as determined by the fee schedule.

(2) Service providers shall be responsible for collecting fees owed by eligible persons and reporting to area agencies all such fees paid or owed by eligible persons.

(3) No fees will be charged for access services, nutrition services, counseling for the terminally ill or legal services.

(4) Fees paid shall not exceed the cost of services provided. [Order 1174, § 388-17-180, filed 11/30/76.]

**WAC 388-17-200 Services provided by the senior citizens services program.** The following services shall be provided under the senior citizens services program. The level and extent of services provided in a planning and service area shall be determined by the area office.

(1) Access services: Services designed to provide identification of eligible persons, assessment of individual needs and follow-up services as required. Access services shall include information and referral, outreach, transportation, escort, personal counseling and employment services.

(2) Day health services: Services in the community provided by certified centers for eligible adults who do not require twenty-four hour care. Services may include general nursing, rehabilitation, personal care, nutritional services, medical services, social casework, mental health and/or transportation.

(3) In-home services: Care provided to a person in his or her own home to enable him or her to remain in his or her customary home. In-home services may include homemaker services, chore services and/or home health care.

(4) Counseling on death for the terminally ill: Supportive counseling for terminally ill patients and their families, extending through the mourning process. Services do not include reimbursement for the use of life-sustaining machines.

(5) Health screening: Examinations designed to detect functional and physiologic abnormalities in order to help deter rapid deterioration of previously unattended acute and chronic disease.

(6) Nutrition services: The provision of low-cost, nutritionally-sound meals in central locations or home-delivered meals for household eligible persons, and supportive services in nutritional education, shopping assistance, diet counseling, health and personal counseling, transportation and personal escort services and other services to sustain nutritional well-being.

(7) Home maintenance and counseling: Services to maintain a person's home in a state of adequate repair for safety and comfort. Services may include housing, counseling, minor repair and maintenance and moving assistance as necessary to relocate a senior citizen to a proper environment. Cost of services shall not exceed \$500 per household.

(8) Legal services: Provision of civil legal counseling and representation of senior citizens in the areas of housing, consumer protection, public entitlement, property and related fields of law.

(9) Night services: Therapeutic activities for eligible persons who have disabilities which are particularly severe in the evening and nighttime. Night services extend the operating hours of existing community services beyond regular working hours. [Order 1174, § 388-17-200, filed 11/30/76.]

**WAC 388-17-220 Mental health training program.** The senior citizens services program shall establish a demonstration training project within the limits of available funds to:

(1) Increase the expertise of community mental health workers to prepare them to work with aging individuals who have mental and emotional problems peculiar to aging.

(2) Train paraprofessionals and volunteers who come in contact with the aging to complement the work of the professionals through supportive intervention. [Order 1174, § 388-17-220, filed 11/30/76.]

**WAC 388-17-240 Volunteer programs.** (1) The senior citizens services program shall, in cooperation with the federal ACTION program established by Public Law 93-113, Title II, provide volunteer opportunities for senior citizens. Volunteer programs include:

(a) Foster grandparents: To provide part-time volunteer opportunities for low-income persons, age 60 and over, to render supportive person-to-person services in health, education, welfare and related settings to children, 18 and under, having special needs.

(b) Senior companions: To provide meaningful part-time volunteer opportunities for low-income older persons to render supportive person-to-person services to adults with special or exceptional needs in health, education, welfare and related settings.

(c) Retired senior volunteers: To develop a recognized role in the community and a meaningful life for persons of retirement age through significant volunteer service. Older adults are encouraged and helped to offer their skills, experience and talents to their communities through socially-useful activities.

(2) Eligibility requirements for participation in the volunteer programs shall be determined by regulations established by the federal ACTION agency. [Order 1174, § 388-17-240, filed 11/30/76.]

### Chapter 388-20 WAC EXCEPTION TO RULE

**WAC**  
388-20-010 Rules—Applicability.  
388-20-020 Rules—Procedures for exceptions.

**WAC 388-20-010 Rules—Applicability.** (1) The rules for determining eligibility and amount of payment are based on law and are designed to permit the granting of necessary assistance considering the applicant's requirements, resources and ability to help himself. The purpose is to assure the meeting of need on a modest, reasonable basis with as little disturbance as possible of

normal living arrangements. The result of granting assistance according to these rules should be to ease the conditions which individuals would face without such assistance and to increase their opportunities for functioning effectively under arrangements adapted to their particular circumstances.

(2) The rules are necessarily based on conditions which are considered to apply in the great majority of situations. Individual circumstances may exist in which application of the rule seems to work in opposition to the objective desired. This may occur when the person's situation differs from that of the majority or when his circumstances are peculiar. In these cases exceptions may be considered.

(3) An exception cannot be made to a specific provision of the law. However, individual case exception to a rule or procedure not specifically enunciated in the law can be authorized by the state office when it appears to be in the best interest of overall economy and the individual's welfare.

(4) Exception decisions are not subject to the fair hearing procedures of chapter 388-08 WAC. [Order 773, § 388-20-010, filed 2/16/73; Order 528, § 388-20-010, filed 3/31/71, effective 5/1/71; Order 348, § 388-20-010, filed 5/28/69; Regulation 4.00 (part), filed 12/31/65, effective 2/1/66; Regulation 4.00, filed 1/24/64.]

**WAC 388-20-020 Rules—Procedures for exceptions.** (1) A local office believing the application of a rule will result in undue hardship or will defeat its purpose in a specific case may direct a written request for an exception through the regional administrator to the secretary or his designee. The request shall describe the case as completely as possible in factual, explicit, and objective terms.

(2) At the local office level, only the local administrator or his immediate designee may endorse, approve, or deny an exception request. Approval at the local office level is limited to the circumstances described in WAC 388-44-127(2)(a). Regardless of disposition, all exception requests shall be forwarded, via the regional office, for review by the secretary or his designee.

(3) Upon receipt of a request for exception, the regional administrator shall discuss it with the local office, if advisable, and then either endorse or not endorse it and forward it to the secretary or his designee.

(4) The secretary or his designee shall approve or disapprove the request and notify the local office and the regional administrator of his decision in writing. The local office shall file its copy in the case record and notify the client of the decision and the reasons for it.

(5) If, subsequent to the denial of an exception request, additional pertinent information comes to light, the local office can resubmit the exception request. [Order 773, § 388-20-020, filed 2/16/73; Order 686, § 388-20-020, filed 5/25/72; Order 528, § 388-20-020, filed 3/31/71, effective 5/1/71; Order 348, § 388-20-020, filed 5/28/69; Order 273, § 388-20-020, filed 1/29/68; Regulation 4.00 (part), filed 12/31/65, effective 2/1/66; Regulation 4.00, filed 1/24/64.]

**Chapter 388-22 WAC  
DETERMINING AND VERIFYING  
ELIGIBILITY—DEFINITIONS**

**WAC**

388-22-030 Definitions.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS  
CHAPTER**

- 388-22-010 Principles in determining eligibility. [Regulation 5.10, filed 7/27/67; Regulation 5.10, filed 1/24/64.] Repealed by Order 529, filed 3/31/71, effective 5/1/71.
- 388-22-020 Verifying eligibility and re-eligibility. [Order 1016, § 388-22-020, filed 4/1/75; Order 943, § 388-22-020, filed 6/28/74; Order 871, § 388-22-020, filed 11/20/73; Order 529, § 388-22-020, filed 3/31/71, effective 5/1/71; Order 266, § 388-22-020, filed 12/5/67; Regulation 5.20, filed 7/27/67; Regulation 5.20, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.

**WAC 388-22-030 Definitions.** This section is a compilation of the definitions of words and phrases extensively used in the department's rules concerning the financial aid programs. Their collection in one section tends to insure a more exact understanding of the word or concept and to avoid repetition of the definition. Related definitions have been grouped under the key word, for example, "income" and its modifications. Some words and phrases are listed with a reference to the section in which the definition is found. These terms seem best defined in the context of the section in which they are primarily used, for example, "adequate consideration" in the relation to the transfer or sale of property.

For definitions of terms used in the medical assistance—Title XIX and medical services (fully state financed) programs, see chapter 388-80 WAC.

- (1) "Adequate consideration." See WAC 388-26-205.
- (2) "Adult" means a person 18 years of age or older.
- (3) "Apartment" means two or more rooms with cooking and sleeping facilities which is a unit of a larger structure.
- (4) "Applicant" shall mean any person or a family unit by whom or for whom a request for assistance has been made.
- (5) "Application." See WAC 388-38-010.
- (6) "Assistance unit" means the members of a family unit who are eligible to be included in a single categorical grant.
- (7) "Authorization"
  - (a) "Authorization date" means the date the worker signs the prescribed form authorizing assistance for a new, reopened or reinstated case.
  - (b) "Authorization of disbursement of grant" means the final administrative act of the department directing the state disbursing officer to release a warrant.
  - (c) "Authorization of grant" means attesting the applicant's eligibility for assistance in an amount as determined by his circumstances and department standards and giving authority to make payment accordingly.
  - (d) The date of authorization or certification shall always be a day on which the department is officially open for business.

(8) "Automobile" means passenger vehicle and truck of any type and may include boats.

(9) "Board and room" means a living arrangement in which an individual purchases his food, shelter and household maintenance requirements from one vendor.

(10) "Boarding home" means any place in which one or more persons purchases his food, shelter and household maintenance requirements on a board and room basis.

(11) "Cash savings" means money which is not classified as income.

(12) "Certification date" means the date the worker certifies changes in a recipient's circumstances and authorizes an action affecting a grant.

(13) "Child" or "minor child" means a person under 18 years of age.

(14) "Continuing assistance" means payments to persons who presumably will be eligible for and receive, from the date of authorization, regular monthly grants on a prepayment basis. Continuing assistance includes federal aid and continuing general assistance grants to unemployable persons.

(15) "Disability." See WAC 388-93-025.

(15a) "Deadline for grant authorization" means the last day during a month on which a change of circumstances can be transmitted by the ESSO to the SO for processing for payment the first of the following month.

(16) "Effective date" means the date eligibility for a grant begins or eligibility changes or ends.

(17) "Encumbrances of record" means any mortgage, claim, lien, charge or other liability, such as past due taxes, attaching to and binding upon property and which is recorded with the county auditor or treasurer. It also includes the amount of any assessment established and of record, whether past due or due in the future.

(18) "Entitlement." See WAC 388-28-390.

(19) "Equity" means quick-sale value less encumbrances of record.

(20) "Estate" means all real and personal property owned by a person as of the date of his death. Any type of insurance or benefit not payable to the estate of the decedent is excluded from the estate.

(21) "Family unit" means husband and wife, parent(s) or persons standing in loco parentis and minor children, or any combination thereof, living together and receiving assistance; husband and wife shall include a nonapplying spouse.

(22) "Federal aid" means the assistance grant programs for which funds in aid are received by the state from the U.S. government.

(23) "Food stamp program." The program administered by the department in cooperation with the U.S. department of agriculture under which eligible households are certified to receive a bonus of free food coupons with the purchase of food coupons to be used to buy food.

(24) "Fraud." See WAC 388-44-020.

(25) "Funeral." See WAC 388-42-020.

(26) "General assistance—continuing" (GAU) means assistance to unemployable persons who are not eligible for or not receiving federal aid assistance.

(27) "General assistance-noncontinuing" (GAN) is temporary assistance for persons, as specified in chapter 388-37 WAC, who do not qualify or apply for federal aid assistance.

(28) "Grant" means a money payment in the form of a state warrant redeemable at par awarded to a recipient, or to a recipient's guardian, or to the person appointed protective payee for a recipient.

(a) "Adjusting grant" means postpayment of the difference between the amount for which the recipient was eligible for a given period and the amount already paid. An adjusting grant may be payment on an incorrect initial grant, or an adjustment of a regular grant paid.

(b) "Initial grant" means the payment due from date of eligibility to the payment date of the first regular grant. The initial grant may be a combination of postpayment and the monthly prepayment, or postpayment only.

(c) "Minimum grant" means the smallest grant payment. The minimum grant shall be one dollar, unless a court decision requires payment of a smaller amount.

(d) "One-time grant" means one noncontinuing payment supplementing or replacing a regular grant.

(e) "Regular grant" means the monthly prepayment of assistance in the amount authorized on the payment date on a continuing basis until payment is suspended or terminated.

(29) "Grantee" means the person or persons to or for whom assistance is paid.

(30) "House" means a separate structure of one or more rooms.

(31) Deleted.

(32) "Household maintenance" means the requirements of fuel for space heating, water heating, cooking, lights, and refrigeration, household supplies, garbage and sewage disposal and water.

(33) "Impairment." See WAC 388-93-025.

(34) "Income" means any appreciable gain in real or personal property (cash or kind) received by an applicant on or after the first of the month in which eligibility is determined, and which can be applied toward meeting the requirement of the applicant and his dependents, either directly or by conversion into money or its equivalent.

(a) "Cash income" means income in the form of money.

(b) Deleted.

(c) "Earned income." See WAC 388-28-570.

(d) "Exempt income" means net income which is not deducted from the cost of requirements to determine need.

(e) "Income-in-kind" means income in the form of a requirement which contributes appreciably toward meeting the need for the requirement. Income-in-kind shall be evaluated in terms of its cash equivalent.

(f) "Net income" means gross income less cost of producing or maintaining the income.

(g) "Nonexempt income" means net income which is deducted from the cost of requirements to determine need.

(h) "Recurrent income" means income which can be predicted to occur at regular intervals.

(35) "Inquiry." See WAC 388-38-010.

(36) "Intermediate care" and "Intermediate care facility." See WAC 388-34-015(10) and (11).

(37) "Institution-Medical." See WAC 388-34-015(1).

"Institution-Private." See WAC 388-34-015(7).

"Institution-Public." See WAC 388-34-015(8).

(38) "Institutional services." See WAC 388-34-015(12).

(39) "Living in own home" means a living arrangement not involving boarding and rooming, or care in a hospital, nursing home or other institution.

(40) "Marketable securities" means stocks, bonds, sales contracts, mortgages, and all other forms of negotiable securities.

(41) "Medical assistance" or "MA" means the federally aided program (Title XIX-Social Security Act) for providing medical care. See WAC 388-80-005(29).

(42) "Minor" or "minor child" means a person under 18 years of age.

(43) "Need" is the amount of the deficit, as measured by department standards, which exists between the applicant's or recipient's requirements and his nonexempt resources and/or net income for specific payment period.

(44) "Need under normal conditions of living." See WAC 388-26-205(2).

(45) "New" means authorization of a grant for an individual who previously has not received assistance from the state of Washington in the category from which the grant is authorized.

(46) "Nursing home." See WAC 388-34-015(3).

(47) "Nursing home care." See WAC 388-34-015(4).

(48) "Overpayment." See WAC 388-44-010(1).

(49) "Patient." See WAC 388-34-015(6).

(50) "Payee" means the person in whose name a warrant or check is issued.

(51) "Payment date" means the date on which the grant is considered an amount expended and the warrant is dated. The payment date of a regular grant is usually the date the payee receives his warrant. For other grants the payee may receive the warrant a day or two after the payment date.

(52) "Permanent and total disability." See WAC 388-93-025.

(53) Deleted.

(54) "Psychiatric facility." See WAC 388-34-015(9).

(55) "Property" means all resources and/or income possessed by an applicant or a recipient.

(a) "Personal property" means any form of property which is not real property.

(b) "Real property" is land, buildings, thereon and fixtures permanently attached to such buildings. Growing crops are included. Any structure used as a dwelling shall be considered as real property.

(c) "Transfer of property." See WAC 388-26-205(5).

(d) "Used and useful property" shall mean property which currently serves a practical purpose for an applicant, or recipient, offers a possible financial return or contributes to the individual's future capacity for self-support or to the growth and development of some members of the family.

(56) "Protective payment" means a cash public assistance payment to an individual in behalf of an eligible recipient under conditions specified by the department in WAC 388-33-420 and WAC 388-33-440 through 388-33-459.

(57) "Public assistance emergency assistance fund" — means the payment system used by the ESSO to issue public assistance warrants to individuals in emergent need who are eligible for noncontinuing or continuing assistance.

(58) "Recipient" shall mean any person or a family unit for whom or in whose behalf a public assistance grant has been authorized. Such a person or family unit remains in "recipient" status during the entire period for which assistance was paid or suspended; provided that when public assistance is unlawfully received, recipient status ends upon notice of unlawful payment and receipt of assistance.

(59) "Recomputation" means refiguring the grant according to certified changes in the recipient's circumstances.

(60) "Reinstate" means an authorization to resume payment of a grant from the category in which payment was previously suspended.

(61) "Reopen" means authorization of grant to an individual who previously received assistance from the state of Washington in the category for which he has applied, that is, one whose grant was previously terminated.

(62) "Requirement" means an item of maintenance or a service recognized by the department as essential to the welfare of an individual.

(a) "Additional requirement" means a requirement which is essential for some applicants in their own homes or in boarding homes under specified conditions. See WAC 388-28-150 through 388-28-251.

(b) "Basic requirements" means the needs essential to all persons—food, clothing, personal maintenance and necessary incidentals, shelter and household maintenance. For some persons several basic requirements are combined or consolidated into an item such as board and room, nursing home care, or intermediate care due to the individual's living arrangement.

(63) "Resource" means any property an applicant owns when he applies for assistance which can be applied toward meeting his and his dependents' financial need, either directly or by conversion into money or its equivalent. Any property obtained on or after the first of the month within which eligibility is determined is called "income."

(a) "Exempt resource" is a resource which by law or rule of the department does not make the owner ineligible, nor is its value (other than use) used in computing financial need.

(b) "Nonexempt resource" means a resource which is not exempt by law or policy of the department and the value of which is used to determine financial need.

(64) "Restitution" means the right of the state to secure repayment of assistance paid contrary to law.

(65) Deleted.

(66) Deleted.

(67) "Statements in support of application." See WAC 388-38-010(3).

(68) "Suspension" means an action affecting payment according to WAC 388-33-355.

(69) "Terminate" means discontinuance of payment or termination of suspension status due to ineligibility.

(70) "Transfer—intercounty" means certification of grant recomputation and other grant actions affecting a recipient who permanently changes his residence from one county to another, and transfer of the case between ESSO.

(71) "Value"

(a) "Ceiling value" means the limitation established by the department on the gross market value of nonexempt property.

(b) "Fair market value" is the value at which a reasonably prudent person would purchase property if he were not forced to purchase and at which a reasonably prudent person might sell the property were he not forced to sell. It is differentiated from a quick-sale or forced-sale value. Fair market value ordinarily is established by a person qualified to make evaluations of property.

(c) Deleted.

(d) "Quick-sale value" or "forced-sale value" is the value at which property can be converted into cash almost immediately, and without waiting for "the best offer."

(e) "Reasonable value." See WAC 388-26-205(4).

(72) "Vendor Payment" means an authorized payment to an individual, corporation or agency for goods furnished or services rendered to an individual eligible for public assistance.

(73) "Vocational Training" means an organized curriculum in a school or training unit or an organized training program under recognized sponsorship with a specific vocational training objective and will take no more than two years to complete. For purposes of this definition the following are included:

(a) Regular attendance at a high school under special arrangements adapted to the individual educational needs of the student if the course leads to a diploma or a certificate equivalent to the high school diploma.

(b) Regular attendance in a course of vocational training designed to fit the student for gainful employment.

(c) Regular attendance in an organized training program under recognized sponsorship, such as college vocational courses, OEO, MDTA, apprenticeships, etc.

(74) "Warrant" means the state treasurer's warrant issued in payment of a grant.

(75) "Warrant register" means the list(s) of warrants issued specifying payee's name, amount of payment, warrant number, and for each AFDC payment of the number of matchable persons whose need is being met by the grant.

(a) "Regular warrant register" means the list of regular grants paid.

(b) "Supplemental warrant register" means the list of initial, adjusting and one-time grants paid.

(76) "Work incentive program" or "WIN." See WAC 388-57-040. [Order 1131, § 388-22-030, filed 7/8/76;

Order 1058, § 388-22-030, filed 10/1/75; Order 745, § 388-22-030, filed 12/7/72; Order 648, § 388-22-030, filed 2/9/72; Order 617, § 388-22-030, filed 10/27/71; Order 529, § 388-22-030, filed 3/31/71, effective 5/1/71; Order 353, § 388-22-030, filed 5/29/69; Regulation 5.30, filed 6/14/66; Regulation 5.30, filed 1/24/64.]

### Chapter 388-24 WAC

#### AID TO FAMILIES WITH DEPENDENT CHILDREN—ELIGIBILITY

##### WAC

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388-24-065 Aid to families with dependent—regular—Deprivation due to incapacity.

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388-24-107 Eligibility conditions applicable to AFDC-R and AFDC-E—Registration for WIN.

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388-24-109 Eligibility conditions applicable to AFDC-R and AFDC-E—Cooperation in obtaining support from absent parents.

388-24-114 Procedures affecting abandoned child.

388-24-125 Eligibility conditions applicable to AFDC-R and AFDC-E—Living in home of relative of specified degree.

388-24-135 Aid to families with dependent children—Unemployed father—Summary of eligibility conditions.

388-24-137 Continuation of assistance when deprivation ceases.

388-24-190 Coordination of public assistance and child welfare services—Responsibility for protective care for children.

388-24-200 Reporting child neglect or abuse to juvenile court.

388-24-207 Aid to families with dependent children—foster care—Summary of eligibility conditions.

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388-24-225 Aid to families with dependent children—foster care—Income and nonexempt resources.

388-24-235 Aid to families with dependent children—foster care—Medical care.

388-24-243 Aid to families with dependent children—foster care—Nonprofit agency placement.

388-24-250 Emergency assistance to needy families with children.

388-24-255 Emergency assistance—Eligibility.

388-24-260 Emergency assistance—Standards—Duration.

388-24-265 Emergency assistance to needy families with children—Eligible persons.

388-24-270 Emergency assistance to needy families with children—Transportation.

388-24-275 Emergency assistance to needy families with children—Aliens.

388-24-550 Assistance to minor child.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-24-005 Organization of chapter. [Regulation 6.00, filed 12/21/64, effective 2/1/65; Regulation 6.00, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.

388-24-010 Aid to blind—Summary of eligibility conditions. [Order 618, § 388-24-010, filed 10/27/71; Order 530, § 388-24-010, filed 3/31/71, effective 5/1/71; Regulation 6.11, filed 6/30/67; Regulation 6.11, filed 6/3/65, 1/24/64.] Repealed by Order 917, filed 3/14/74.

388-24-015 Aid to blind—Blindness defined. [Order 530, § 388-24-015, filed 3/31/71, effective 5/1/71; Regulation 6.121, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.

388-24-020 Aid to blind—Publicly soliciting alms defined. [Order 530, § 388-24-020, filed 3/31/71, effective 5/1/71; Regulation 6.122, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.

388-24-025 Aid to blind—Determining blindness. [Order 530, § 388-24-025, filed 3/31/71, effective 5/1/71; Regulation 6.13, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.

388-24-030 Factors—Authorization procedure for determining blindness. [Regulation 6.131, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.

388-24-032 Factors—Services. [Order 530, § 388-24-032, filed 3/31/71, effective 5/1/71.] Repealed by Order 917, filed 3/14/74.

388-24-045 Aid to families with dependent children—Sub-categories of AFDC. [Order 441, § 388-24-045, filed 4/15/70; Order 365, § 388-24-045, filed 7/9/69; Regulation 6.211, filed 8/29/66; Regulation 6.211, filed 12/31/65.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.

388-24-071 Aid to families with dependent children—Termination of deprivation. [Order 730, § 388-24-071, filed 10/27/72.] Repealed by Order 923, filed 4/15/74.

388-24-095 Eligibility conditions applicable to AFDC-R and AFDC-E—Use of resources for employment or training—Unemployed employable and unemployable person defined. [Order 748, § 388-24-095, filed 12/7/72; Order 609, § 388-24-095, filed 9/22/71; Order 530, § 388-24-095, filed 3/31/71, effective 5/1/71; Order 496, § 388-24-095, filed 11/25/70, effective 1/1/71; Order 447, § 388-24-095, filed 5/14/70, effective 6/15/70; Order 319, § 388-24-095, filed 11/27/68; Emergency Order 305, § 388-24-095, filed 9/20/68; Regulation 6.2311, filed 8/29/66 and 12/31/65.] Repealed by Order 829, filed 7/26/73.

388-24-097 Full-time employment. [Order 447, § 388-24-097, filed 5/14/70, effective 6/15/70.] Repealed by Order 496, filed 11/25/70, effective 1/1/71 and Order 530, filed 3/31/71, effective 5/1/71.

388-24-100 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Employable person in or not in labor force. [Regulation 6.2312, filed 8/29/66; Regulation 6.2312, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.

388-24-105 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Registration of unemployed person in the labor force with state employment service. [Regulation 6.2313, filed 8/29/66; Regulation 6.2313, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.

388-24-110 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Verification of unemployment compensation status. [Regulation 6.2314, filed 8/29/66; Regulation 6.2314, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.



- 388-24-115 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Acceptance of available employment. [Regulation 6.2315, filed 8/29/66; Regulation 6.2315, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388-24-120 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Referral for other services. [Regulation 6.2316, filed 8/29/66; Regulation 6.2316, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388-24-130 Living in home of relative of specified degree—Financial need. [Regulation 6.233, filed 8/29/66; Regulation 6.233, filed 1/24/64.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-140 Living in home of relative of specified degree—Deprivation due to unemployment of parent. [Regulation 6.242, filed 8/29/66; Regulation 6.242, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-145 Living in home of relative of specified degree—Employability of parent. [Regulation 6.2421, filed 8/29/66; Regulation 6.2421, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-150 Living in home of relative of specified degree—Unemployed parent. [Regulation 6.2422, filed 8/29/66; Regulation 6.2422, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-155 Parent in the labor force. [Regulation 6.2423, filed 8/29/66; Regulation 6.2423, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-160 Aid to dependent child of unemployed parent—Financial need. [Regulation 6.243, filed 8/29/66; Regulation 6.243, filed 12/31/65.] Repealed by Order 356, filed 5/29/69.
- 388-24-180 Aid to families with dependent children—Children eighteen, nineteen, twenty years of age. [Order 530, § 388-24-180, filed 3/31/71, effective 5/1/71; Regulation 6.26, filed 7/13/65; Regulation 6.26, filed 1/24/64.] Repealed by Order 618, filed 10/27/71.
- 388-24-195 Coordination of public assistance and child welfare services—Transfer of cases involving services to children. [Regulation 6.272, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388-24-205 Aid to dependent children—Foster family care. [This is reference section only.] Repealed by Order 917, filed 3/14/74.
- 388-24-230 Aid to families with dependent children—foster care—Authorization and payment. [Order 291, § 388-24-230, filed 6/12/68; Regulation 6.286, filed 1/24/64.] Repealed by Order 469, filed 8/19/70.
- 388-24-240 Aid to families with dependent children—foster care—Assignment of cases. [Order 291, § 388-24-240, filed 6/12/68; Regulation 6.288, filed 1/24/64.] Repealed by Order 469, filed 8/19/70.
- 388-24-360 Disability assistance. [Order 783, § 388-24-360, filed 3/16/73; Order 563, § 388-24-360, filed 5/19/71; Order 530, § 388-24-360, filed 3/31/71, effective 5/1/71; Regulation 6.30, filed 6/17/64; Regulation 6.30, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-365 Disability assistance—Summary of eligibility conditions. [Order 563, § 388-24-365, filed 5/19/71; Order 530, § 388-24-365, filed 3/31/71, effective 5/1/71; Order 365, § 388-24-365, filed 7/9/69; Regulation 6.31, filed 6/17/64; Regulation 6.31, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-370 Disability assistance—Permanent and total disability. [Order 563, § 388-24-370, filed 5/19/71; Order 530, § 388-24-370, filed 3/31/71, effective 5/1/71; Regulation 6.32, filed 6/17/64; Regulations 6.32, 6.321, et. seq., filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-375 Disability assistance—Application. [Order 563, § 388-24-375, filed 5/19/71.] Repealed by Order 917, filed 3/16/74.
- 388-24-380 Disability assistance—Local office responsibility. [Order 530, § 388-24-380, filed 3/31/71, effective 5/1/71; Regulation 6.33, filed 6/17/64; Regulation 6.33, filed 1/24/64.] Repealed by Order 563, filed 5/19/71.
- 388-24-382 Disability assistance—Periodic review of permanent and total disability. [Order 563, § 388-24-382, filed 5/19/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-384 Disability assistance—Reapplication. [Order 563, § 388-24-384, filed 5/19/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-390 Medical division representative's responsibility. [Regulation 6.34, filed 6/17/64; Regulation 6.343, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71. Repealed by Order 563, filed 5/19/71.
- 388-24-392 Medical division representatives responsibility—State office review team supervisory function. [Order 563, § 388-24-392, filed 5/19/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-400 Medical division representatives responsibility—Area review team—Composition—Function. [Order 609, § 388-24-400, filed 9/22/71; Order 563, § 388-24-400, filed 5/19/71; Order 530, § 388-24-400, filed 3/31/71, effective 5/1/71; Regulation 6.35, filed 6/17/64; Regulation 6.341, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-405 State office responsibility—Division of medical care. [Regulation 6.36, filed 6/17/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388-24-410 State office responsibility—Refusal to accept available and recommended medical treatment. [Order 563, § 388-24-410, filed 5/19/71; Order 530, § 388-24-410, filed 3/31/71, effective 5/1/71; Regulation 6.37, filed 6/17/64, effective 8/1/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-455 Old age assistance—Summary of eligibility conditions. [Order 530, § 388-24-455, filed 3/31/71, effective 5/1/71; Order 365, § 388-24-455, filed 7/9/69; Order 247, § 388-24-455, filed 11/1/67; Regulations 6.40 and 6.41, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-475 Continuing general assistance—Summary of eligibility conditions. [Order 609, § 388-24-475, filed 9/22/71; Order 530, § 388-24-475, filed 3/31/71, effective 5/1/71; Order 365, § 388-24-475, filed 7/9/69; Order 344, § 388-24-475, filed 4/16/69; Order 291, § 388-24-475, filed 6/12/68; Emergency Order 287, filed 5/1/68; Order 247, § 388-24-475, filed 11/1/67; Regulation 6.51, filed 12/31/65; Regulation 6.51 filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-485 Continuing general assistance—Factors. [Regulation 6.52, filed 1/24/64.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-490 Continuing general assistance—Limitations. [Order 247, § 388-24-490, filed 11/1/67; Regulation 6.521, filed 1/24/64.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-495 Continuing general assistance—Unemployability. [Order 609, § 388-24-495, filed 9/22/71; Order 530, § 388-24-495, filed 3/31/71, effective 5/1/71; Order 247, § 388-24-495, 11/1/67; Regulation 6.522, filed 12/31/65; Regulation 6.522, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-500 Continuing general assistance—Refusal to accept available and recommended medical treatment. [Order 530, § 388-24-500, filed 3/31/71, effective 5/1/71; Order 247, § 388-24-500, filed 11/1/67; Regulation 6.523, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-505 Continuing general assistance—Standards for requirements. [Order 530, § 388-24-505, filed 3/31/71, effective 5/1/71; Regulation 6.524, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-24-510 Continuing general assistance—General assistance—unemployable person for federal aid recipient from another state. [Regulation 6.525, filed 1/24/64.] Repealed by Order 280, filed 2/14/68.

**WAC 388-24-040 Aid to families with dependent children—Summary of eligibility conditions.** AFDC shall be granted in behalf of a needy child

- (1) Who is under the age of 18 years,
  - (a) AFDC may be granted on behalf of an unborn child. Medical confirmation of pregnancy is required;
  - (b) AFDC shall be continued through the month in which the child reaches the maximum age;
- (2) Who is a resident of the state of Washington, or who lives with a parent or other relative who is a resident of the state of Washington – see WAC 388-26-050 through 388-26-115;
- (3) Who is deprived of parental care and support because of death, or continued absence of a parent, or the incapacity of a parent or stepparent – see WAC 388-24-055 through 388-24-075. If unemployment of the father or stepfather is the basis of deprivation, all provisions in WAC 388-24-135 apply.
- (4) Whose parent or stepparent, if incapacitated, does not refuse available medical treatment without good cause as specified in WAC 388-24-065(6);
- (5)(a) Who is living in the home of a relative of specified degree, except for a temporary period, as provided in WAC 388-24-125; or
  - (b) Who, as a result of judicial action, was removed from his home and placed in foster care after April 30, 1961, and who meets the conditions specified in WAC 388-24-207;
- (6) Who is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the U.S. as described in WAC 388-26-120;
- (7) Whose parent or stepparent has not transferred property contrary to law or DSHS rules in WAC 388-26-200 through 388-26-250;
- (8) Who is in financial need – see chapters 388-28 and 388-33 WAC;
- (9) The applicant's written statement of application for AFDC must include all children under 18 years of age living in the home who are full or half brothers or sisters or stepbrothers or stepsisters whether or not financial assistance is being requested for all of the children. Total resources and income available for all such children and their parents or stepparents in the home must be declared by the person applying in behalf of the children. Unless this is done, eligibility can not be determined;
- (10) For persons to be included in the AFDC assistance unit, see WAC 388-24-050. [Order 1004, § 388-24-040, filed 1/24/75; Order 987, § 388-24-040, filed 12/16/74; Order 829, § 388-24-040, filed 7/26/73; Order 618, § 388-24-040, filed 10/27/71; Order 597, § 388-24-040, filed 9/1/71; Order 530, § 388-24-040, filed 3/31/71, effective 5/1/71; Order 441, § 388-24-040, filed 4/15/70; Order 365, § 388-24-040, filed 7/9/69; Order 319, § 388-24-040, filed 11/27/68; Emergency Order 305, § 388-24-040, filed 9/20/68; Order 291, § 388-24-040, filed 6/12/68; Emergency

Order 287, filed 5/1/68; Regulation 6.21, filed 8/29/66; Regulation 6.21, filed 12/31/65, 7/13/65, 6/3/65 and 6/17/64, effective 8/1/64; Regulation 6.21, filed 1/24/64.]

**WAC 388-24-050 Aid to families with dependent children—Assistance unit.** (1) Eligibility for any individual to be included in an AFDC assistance unit is conditioned upon the provisions in WAC 388-24-107 and WAC 388-57-061.

- (2) The AFDC-R assistance unit shall consist of
  - (a) The eligible child or children living together, and
  - (b) The natural, adoptive, stepparent, or parents with whom the child(ren) lives. If the child(ren) is deprived because of the incapacity of a parent, the legally wedded spouse of the child(ren)'s parent is also included, or
  - (c) In lieu of a parent, the needy relative caretaker of the child(ren) of the degree specified in WAC 388-24-125 with whom the child(ren) lives.
  - (d) Only the eligible child shall constitute the AFDC-R assistance unit when he is living with a parent or other caretaker relative who is not in financial need, or who does not meet other eligibility requirements.
  - (e) An eligible child who is temporarily in an institution and meets conditions in WAC 388-24-125 shall be included or continue to be included in an AFDC assistance unit.
    - (3) The AFDC-E assistance unit shall consist of
      - (a) The eligible child(ren) and
      - (b) Both natural or adoptive parents or a stepfather and parent of the eligible child(ren) if legally married to each other, with whom the child(ren) lives. If not legally married, see subsection (4). If an unemployed parent is temporarily absent from the home to search for employment with intention to reunite with the family, only the parent in the home is included in the unit.
      - (c) Only the eligible child shall constitute the AFDC-E assistance unit when he is living with parents who do not meet eligibility requirements.
      - (4) Unmarried parents living with one or more children
        - (a) When a child is living with both of his parents who are unmarried, only one such parent can be included in the child's assistance unit.
        - (b) When the family is composed of the mother's child(ren) only, or the father's child(ren) only, or one or more children of both parents, or any combination of the above,
          - (i) One assistance unit is established for all children who have one parent in common, and this unit can include only this parent.
          - (ii) Another assistance unit is established for any children of the other parent only, including this parent if otherwise eligible.
        - (5) The AFDC-FC assistance unit shall include only the child who is eligible for AFDC-FC.
        - (6) When it is necessary for a responsible relative to reside temporarily apart from his or her family to secure training, as specified in WAC 388-24-125(3)(b)(v), separate assistance units shall be established for the relative in training and for the other members of the family.

(7) When all the dependent children in a potential AFDC assistance unit are receiving SSI, the AFDC assistance unit shall consist of the parent(s) or other needy caretaker relative who would be included in the assistance unit if the children were receiving AFDC. [Order 1235, § 388-24-050, filed 8/31/77; Order 1199, § 388-24-050, filed 3/18/77; Order 978, § 388-24-050, filed 10/28/74.]

**WAC 388-24-052 Provision of social security numbers.** (1) As a condition of eligibility each applicant for or recipient of assistance shall be required to

(a) Furnish a social security number for all persons included in the application, or

(b) Apply for social security numbers if they are unknown or have not been issued.

(2) The requirement of subsection (1) shall be applicable to recipients no later than the next regular re-determination of eligibility.

(3) Assistance will not be denied, delayed or terminated pending issuance of social security numbers if the applicant/recipient provides verification that he has met the requirement in subdivision (1)(b).

(4) If the applicant fails or refuses to comply with the requirement to furnish or apply for social security numbers for each person included in the application eligibility for such person(s) cannot be determined and they shall be excluded from the assistance unit. [Order 1054, § 388-24-052, filed 9/25/75.]

**WAC 388-24-055 Aid to families with dependent children—regular—Deprivation of parental support or care.** (1) "Parent" as used in this and following sections means a natural or adoptive parent or stepparent.

(a) An adoptive parent has the same rights and responsibilities as a natural parent in respect to the adopted child.

(b) A stepparent, legally married to a child's parent has the same rights and responsibilities as a natural parent for the care and support of his or her stepchild. See WAC 388-28-350.

(2) A child deprived of parental support or care may or may not be in financial need. Need is a factor to be determined separately.

(3) Deprivation of a child of unmarried parents is determined on the same basis as a child of married parents.

(4) A child living with a parent and an individual assuming the role of spouse of the parent is deprived because of the absence or death of the other natural or adoptive parent. The responsibility of the assumptive spouse to support the child is a financial need factor only — see WAC 388-28-355. Also see WAC 388-28-315 through WAC 388-28-345 in respect to support from absent parent. [Order 1001, § 388-24-055, filed 1/14/75; Order 597, § 388-24-055, filed 9/1/71; Order 530, § 388-24-055, filed 3/31/71, effective 5/1/71; Regulation 6.221, filed 8/29/66; Regulation 6.221, filed 12/31/65.]

**WAC 388-24-060 Aid to families with dependent children—regular—Deprivation due to death.** (1) If either or both parents are deceased, a child is considered as deprived of parental support or care except that:

(2) Deprivation of parental support or care due to death is overcome by marriage or remarriage of the remaining parent. A stepparent is legally responsible for providing support and care to a stepchild. [Order 597, § 388-24-060, filed 9/1/71; Order 530, § 388-24-060, filed 3/31/71, effective 5/1/71; Regulation 6.2211, filed 8/29/66; Regulation 6.2211, filed 12/31/65.]

**WAC 388-24-065 Aid to families with dependent children—regular—Deprivation due to incapacity.** (1) A child is considered to be deprived of parental support and care by reason of parental incapacity when he lives with two natural or adoptive parents or one natural or adoptive parent and one stepparent and one or both parents are substantially incapacitated.

(2) "Incapacity" refers to the existence of a physiological, emotional and/or mental impairment, defect, illness, or loss.

(a) "Substantially incapacitated" shall mean that the person can be expected to work at gainful employment for no more than one-half the time customarily required of fully employable persons; or that the person cannot perform necessary homemaking activities and/or provide adequate care for the children without help from other individuals.

(b) An exception to the rule in subdivision (2)(a) may be made when a person with limited skill and abilities is working more than half time in a special workshop or special work arrangement for handicapped individuals and the work is not fully competitive. Incapacity may continue to exist if the person is incapable of work in competitive work arrangements with full wages.

(c) Incapacity can be of a permanent or temporary nature, but must be expected to last for a period of at least 30 days from the date of application.

(3) A claim of incapacity shall be substantiated by competent medical testimony.

(a) A physiological incapacity will be documented by a report from a physician or chiropractor.

(b) A mental or emotional incapacity will be documented by a report from a psychiatrist, a clinical psychologist, or a mental health clinic when the report is signed by the clinic director.

(c) All medical testimony shall be in writing and must include a diagnosis and prognosis for the incapacity and a description of the effect of the condition on the individual's ability to function.

(4) Mental or emotional incapacity shall be determined on the basis of distinct impairments which substantially reduce a parent's ability to engage in activities necessary to carry on full-time specified responsibilities, such as employment, home management and/or adequate care of children. Evidence of any one or a combination of the following conditions may be sufficient to establish incapacity:

(a) Inability to exercise judgment, make decisions, sustain an adequate attention span, follow directions or

learn to the degree necessary to sustain full-time employment, homemaking activities or care of the children.

(b) Bizarre or inappropriate behavior beyond his capability to control.

(c) Significant loss of physical and motor control.

(d) Inadequate perception and memory.

(e) Use of medication which impairs functioning.

(5) Incapacity due to alcoholism or drug addiction shall be determined by medical evidence that:

(a) Pathological or organic damage has resulted from chronic alcohol and/or drug abuse, or

(b) The use of alcohol or drugs has substantially reduced the parent's ability to engage in full-time employment or homemaking activities.

(6) Individuals who are determined to be incapacitated due to alcoholism or drug abuse shall be required to accept referral to a community alcoholism or drug treatment program for evaluation and recommendation for treatment. (See subsection 12)

(7) The medical testimony shall be supported by an objective appraisal of all factors relevant to the individual's situation.

(a) Consideration shall be given to the individual's age, emotional health, aptitudes, adjustment to and acceptance of the incapacity, family circumstances, employment history, education and the extent to which the individual is able to carry out specified responsibilities such as employment or homemaking. Social or educational deficiencies do not of themselves establish incapacity but may have a bearing on an individual's ability to overcome an incapacity.

(b) If an individual has an obvious incapacity for which medical evidence verifies inability to engage in gainful employment such an appraisal is not required.

(8) Deprivation due to incapacity shall be determined by the ESSO incapacity review team in accordance with the criteria in subsections (1) through (7). The review team shall:

(a) Consider medical and other related evidence of the incapacitating condition and make a decision confirming or denying the existence of incapacity within thirty days of the date of application, except in circumstances beyond the control of the agency such as delay on the part of the applicant, the examining physician or other source of documentation.

(b) Request additional information when necessary.

(c) Consult with the medical consultant as necessary for evaluation of medical data.

(d) Determine probable duration of incapacity. The probable duration shall be related to the prognosis for the condition as predicted by the medical evidence but shall not exceed twelve months without a redetermination of incapacity.

(9) Eligibility cannot be established if an applicant or recipient fails to cooperate in obtaining information documenting incapacity.

(10) Cost of necessary medical reports to determine incapacity shall be paid by the department. Payment for such reports shall not be made to DSHS agencies.

(11) Eligibility of either parent or stepparent in the home for veterans benefits based on disability of 50% or more or for any social security administration benefit

based on disability shall establish incapacity for aid to families with dependent children benefits, without further documentation or referral to the incapacity review team.

(12) Acceptance of available medical treatment

(a) Deprivation cannot be established when an AFDC parent or stepparent whose incapacity deprives his or her child(ren) or stepchild(ren) of parental support or care, refuses without good cause to accept available medical treatment which would reasonably be expected to render him or her employable.

(i) "Available medical treatment" shall mean and include medical, surgical, psychiatric therapy, treatment in an alcoholism or drug treatment center, or any combination thereof.

(ii) "Reasonably be expected to render him employable" shall mean that, in the opinion of the medical consultant the recommended medical, surgical or psychiatric therapy, or any combination thereof, is of such a nature and prognosis that, in the specific instance of the individual involved, medical experience indicates that the recommended treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner, or to resume care of the home or children.

(iii) "Refuses without good cause" shall mean that the ESSO shall determine whether the individual is justified in refusing recommended medical treatment.

(b) An individual is justified in refusing recommended medical treatment when, according to the best objective judgment of the ESSO review team confirmed by the ESSO administrator and the medical consultant, such refusal is based upon one or more of the following conditions:

(i) The individual is genuinely fearful of undergoing recommended treatment even though such fear may appear to be unrealistic or irrational;

(ii) The individual could lose a faculty, or the remaining use of a faculty he now has, and refuses to accept the risk;

(iii) The individual will not accept recommended medical treatment because of religious scruples. [Order 1192, § 388-24-065, filed 2/18/77; Order 1109, § 388-24-065, filed 4/15/76; Order 987, § 388-24-065, filed 12/16/74; Order 940, § 388-24-065, filed 6/10/74; Order 923, § 388-24-065, filed 4/15/74; Order 829, § 388-24-065, filed 7/26/73; Order 609, § 388-24-065, filed 9/22/71; Order 597, § 388-24-065, filed 9/1/71; Order 530, § 388-24-065, filed 3/31/71, effective 5/1/71; Order 291, § 388-24-065, filed 6/12/68; Emergency Order 287, filed 5/1/68; Order 267, § 388-24-065, filed 12/5/67; Regulation 6.2212, filed 1/4/67; Regulation 6.2212, filed 8/29/66, 3/31/66 and 12/31/65.]

**WAC 388-24-070 Aid to families with dependent children—regular—Deprivation due to continued absence from home.** (1) Determination whether a child has been deprived of parental support or care is made in relation to a child's natural parent, adoptive parent, or stepparent and the term parent as used in this section refers to any of those relationships.

(2) Continued absence of a parent from the home establishes deprivation of parental support or care when

(a) The parent is living out of the home in which the child resides, and

(b) The nature of the absence interrupts or terminates the parent's functioning as a provider of maintenance, physical care or guidance for the child, and

(c) The known or indefinite duration of the absence precludes counting on the parent's performance of his function in planning for the present support or care of the child.

(3) Absence from the home is considered as "being continued" when the situation has, or is likely to have, a degree of permanency in contrast to a purely temporary disruption of family life. The following situations are examples of situations which are considered to meet this requirement:

(a) Absence as the result of legal action

(i) The parents are divorced or divorce action has been filed; or the marriage has been annulled; or a petition has been filed requesting dissolution of the marriage because the marriage is irretrievably broken; or a separation contract has been filed with the court containing provisions for maintenance, property disposition, custody of children, support, and visitation; or a written separation contract has been published in a legal newspaper, in lieu of a court decree.

(ii) Absence due to divorce is overcome by remarriage of the child's natural or adoptive parent with whom he lives.

(iii) If the natural or adoptive parents, in spite of the legal action, resume living together, there is no longer deprivation on the basis of absence.

(b) Absence due to separation, desertion or abandonment

(i) There is a clear disassociation of one or both parents from their normal family relationship and no indication that the absence is for the purpose of seeking employment, working, or of technically qualifying for assistance.

(ii) If the separation, desertion or abandonment has existed at least thirty days prior to application and there is no indication that the absence will not continue, deprivation is considered established.

(iii) Deprivation may be established if the absence has existed for less than thirty days prior to application only when there is sufficient information as determined by the local office showing the absence can be expected to continue. The type of information and basis of determination must be documented in the case record.

(iv) If application is made by a nonresponsible relative on behalf of a child who has not been placed in his custody through a court order, whose parent or parents though able have failed to support the child, apparent abandonment shall be assumed and the policies outlined in WAC 388-28-345 shall apply.

(c) Absence of unmarried parents

If the parents have not maintained a home together, deprivation is established. If the parents have maintained a home together and one parent has left the home, the situation should be evaluated as provided in subsection (3)(b).

(d) Absence due to other reasons

(i) Parent serving in military service and will be absent from the home more than thirty days.

(ii) Parent confined to an institution and is expected to remain for more than thirty days. A parent who is incarcerated but participating in a work release program is considered to be in an institution.

(iii) Parent has been deported. [Order 987, § 388-24-070, filed 12/16/74; Order 854, § 388-24-070, filed 9/13/73; Order 730, § 388-24-070, filed 10/27/72; Order 663, § 388-24-070, filed 3/23/72; Order 597, § 388-24-070, filed 9/1/71; Order 530, § 388-24-070, filed 3/31/71, effective 5/1/71; Regulation 6.2213, filed 8/29/66; Regulation 6.2213, filed 12/31/65.]

**WAC 388-24-075 Aid to families with dependent children—Multiple deprivation factors.** (1) When children in a family are deprived of parental support for different reasons, the assistance unit shall be classified as

(a) AFDC-E if at least one of the children is deprived because of his father's or stepfather's unemployment and the child and the father or stepfather meet all of the requirements for AFDC-E in WAC 388-24-135.

(b) AFDC-R if no child meets all of the requirements for AFDC-E but the children are deprived because of the death, continued absence or incapacity of a parent. [Order 597, § 388-24-075, filed 9/1/71; Order 530, § 388-24-075, filed 3/31/71, effective 5/1/71; Order 496, § 388-24-075, filed 11/25/70, effective 1/1/71; Regulation 6.2214, filed 10/13/66, effective 11/13/66; Regulation 6.2214, filed 8/29/66; Regulation 6.2214, filed 12/31/65.]

**WAC 388-24-080 Aid to families with dependent children—Employed parent.** A child may be eligible for AFDC-R if one parent in the home is employed full or part-time and the other parent is dead, absent or incapacitated. [Order 597, § 388-24-080, filed 9/1/71; Order 530, § 388-24-080, filed 3/31/71, effective 5/1/71; Order 447, § 388-24-080, filed 5/14/70, effective 6/15/70; Regulation 6.222, filed 8/29/66; Regulation 6.222, filed 12/31/65, 1/24/64.]

**WAC 388-24-090 Eligibility conditions applicable to AFDC-R and AFDC-E—Employment or training.**

(1) For a child to be eligible for AFDC-E his unemployed father, or unemployed stepfather shall:

(a) Be currently registered for employment with WSES as indicated in WAC 388-57-015,

(b) Show evidence of unemployment benefit status as specified in WAC 388-57-020,

(c) Accept employment or training for employment as indicated in WAC 388-57-025 and 388-57-030 unless certified to WIN.

(2) All AFDC applicants and recipients are subject to WIN registration as provided in WAC 388-24-107.

(3) A WIN registrant, unless he is a volunteer, who fails to cooperate in appraisal prior to certification shall be subject to the provisions of WAC 388-57-056.

(4) An AFDC recipient (unless a voluntary registrant) who has been certified for the work incentive program and who is determined by the state employment service to have refused employment or training or participation in the WIN program without good cause shall be subject to provisions of WAC 388-57-061.

(5) A child's eligibility is not affected by the WIN registration requirement for the parent or needy caretaker relative. See WAC 388-24-107.

(6) An individual who has been determined to be exempt from registration for WIN on the basis of incapacity shall be referred to DVR. See also WAC 388-52-150 through 388-52-155.

(7) An AFDC-R applicant or recipient is not subject to WAC 388-57-015. [Order 1118, § 388-24-090, filed 5/13/76; Order 829, § 388-24-090, filed 7/26/73; Order 748, § 388-24-090, filed 12/7/72; Order 609, § 388-24-090, filed 9/22/71; Order 597, § 388-24-090, filed 9/1/71; Order 530, § 388-24-090, filed 3/31/71, effective 5/1/71; Order 496, § 388-24-090, filed 11/25/70, effective 1/1/71; Order 447, § 388-24-090, filed 5/14/70, effective 6/15/70; Order 319, § 388-24-090, filed 11/27/68; Emergency Order 305, filed 9/20/68; Regulation 6.231, filed 8/29/66, effective 2/1/66; Regulation 6.231, filed 12/31/65, 6/17/64, 1/24/64.]

**WAC 388-24-107 Eligibility conditions applicable to AFDC-R and AFDC-E—Registration for WIN.** (1) As a condition of eligibility for AFDC, every individual shall register for the work incentive program unless such individual is

(a) A dependent child who is under age 16 or is a dependent child who is age 16 but not yet 18 who is enrolled as, or has been accepted for enrollment as, a full-time student for the next school term,

(b) A person who is ill, incapacitated, or 65 years of age or older. Cost of a physical or psychiatric examination is authorized when the examination is to determine employability for registration or participation in the work incentive program,

(c) A person so remote from a work incentive project that his effective participation is precluded,

(d) A person whose presence in the home is required because of illness or incapacity of another of the household,

(e) A mother or other needy caretaker relative of a child under the age of six who is caring for the child,

(f) A mother or other female caretaker of a child, if the father or another relative in the home is required to register. This exemption shall be terminated when the male required to register has failed to register or has been found to have refused without good cause to participate under a work incentive program or accept employment.

(2) Any applicant or recipient has a right to a fair hearing to contest a determination of nonexempt status and shall be considered as exempt until his status is finally determined. (See WAC 388-57-090).

(3) If an individual who is required to register for the work incentive program fails to register he shall be ineligible for assistance and his financial need shall not be

taken into account in determining the requirements of the family. Assistance will be granted to the eligible members of the family.

(4) A mother or other relative of a child under the age of six, who is caring for the child, shall be advised of her option to register if she so desires, and of the fact that child care will be provided if needed. Other exempted individuals may volunteer to register, subject to acceptance of such registration by employment security.

(5) An AFDC recipient who has been exempt from WIN registration must register within thirty days after the date the reason for his exemption ceases to exist. [Order 1241, § 388-24-107, filed 9/23/77; Order 1199, § 388-24-107, filed 3/18/77; Order 1046, § 388-24-107, filed 8/14/75; Order 748, § 388-24-107, filed 12/7/72; Order 597, § 388-24-107, filed 9/1/71; Order 530, § 388-24-107, filed 3/31/71, effective 5/1/71; Order 447, § 388-24-107, filed 5/14/70, effective 6/15/70; Order 319, § 388-24-107, filed 11/27/68; Emergency Order 305, § 388-24-107, filed 9/20/68.]

**WAC 388-24-108 Eligibility conditions applicable to AFDC-R and AFDC-E—Assignment of rights to support.** (1) As a condition of eligibility each applicant for or recipient of AFDC shall assign to the office of support enforcement any and all right, title and interest in any support obligation the applicant or recipient may have in his or her own behalf or on the behalf of any family member for whom application is being made; such assignment shall include rights in support payments which have accrued prior to the time assignment is made, and shall require the applicant/recipient to promptly remit to the office of support enforcement any payments received directly from the person legally responsible to pay support.

(2) If the parent or other caretaker relative with whom the child is living fails or refuses to comply with the requirement in subsection (1), the caretaker relative shall be ineligible to receive assistance and any assistance for which the children may be eligible shall be provided by protective payment as specified in WAC 388-33-453; the determination of requirements for the child(ren) shall be computed without regard to the requirements of the caretaker relative.

(3) The requirement of subsection (1) shall be applicable to recipients no later than the next regular re-determination of eligibility. [Order 1054, § 388-24-108, filed 9/25/75.]

**WAC 388-24-109 Eligibility conditions applicable to AFDC-R and AFDC-E—Cooperation in obtaining support from absent parents.** As a condition of eligibility each applicant for or recipient of AFDC shall be required to cooperate as specified in WAC 388-14-200. [Order 1054, § 388-24-109, filed 9/25/75.]

**WAC 388-24-114 Procedures affecting abandoned child.** (1) "Abandonment" as used herein refers only to the relationship between the parent and the child and must be determined separately from the relationship between the parents. The term is defined as actual desertion by a parent accompanied by an intention, expressed

or implied from his conduct, to sever the relation of parent and child so far as possible and to throw off all obligations growing out of the relation. This means more than a mere temporary absence from the home or temporary neglect of parental duty, and constitutes an intent to permanently sever all rights and duties emanating from the parental relationship.

(2) Whenever an application is made for aid to families with dependent children for or on behalf of a dependent child, the local office shall make a determination whether there has been an apparent abandonment and if so, the local office shall:

(a) Inform the applicant of the determination made and that notice may be given by the support enforcement section to law enforcement officials,

(b) Afford the applicant the opportunity to terminate before this notice is given. The request for termination must be reduced to writing by the applicant,

(c) If the applicant chooses to continue receiving assistance, the support enforcement section, after determining that no effective civil remedy exists, shall notify the prosecuting attorney of the abandonment. [Order 1241, § 388-24-114, filed 9/23/77.]

**WAC 388-24-125 Eligibility conditions applicable to AFDC-R and AFDC-E—Living in home of relative of specified degree.** (1) Relationship of child to relative

(a) A dependent child to be eligible for AFDC-R must be living with one or more of the following relatives in a place of residence the relative(s) maintains as his or her own home:

(i) Father, mother, grandmother, grandfather, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece. Adoption of a child by a stepparent changes the relationship from stepparent to adoptive parent,

(ii) Relationships to persons of preceding generations as denoted by the prefixes of grand, great, or great-great are within this definition,

(iii) Persons who legally adopt a child. Relatives of persons who adopt children are included within the definition of "relative" above,

(iv) Spouse of any persons named in the above groups are within the scope of this provision, although the marriage is terminated by death or divorce.

(b) A child eligible for AFDC-E must be living with both natural or adoptive parents, or a parent and stepparent, as defined in WAC 388-24-135. A child of unmarried parents is included. In order to determine members of the assistance unit, see WAC 388-24-050 also.

(c) A child eligible for AFDC-FC must live in a licensed family foster home, nonprofit group home, or nonprofit child care institution.

(d) The unborn child is considered to be living with the mother.

(2) Verification of relationships – relative to child and parents to each other.

The declaration of relationship of the relative to the child and of the parents to each other entered on the application or review form is sufficient to establish the delared [declared] relationship unless the ESSO has

reasonable doubt that the declaration is correct. If doubt exists, the relative may be required to present documentary proof.

(3) Other considerations in determining when child is living in home of relative of specified degree.

(a) "Living in home of relative" means that the child is an accepted member of a family unit, and therefore, has a close and direct relationship with a specified relative who has assumed parental responsibility for the care, guidance and control of the child.

(b) The "home" is a family setting which is maintained or is in the process of being established for the benefit of the family group. A home exists as long as the responsible relative retains responsibility for the care and control of the child, even though circumstances may require the temporary absence of either the child or the responsible relative from the customary family setting. Such temporary separations include:

(i) Deleted

(ii) Temporary care of the child or the responsible relative in a hospital or public or private institution when the illness is such that a return to the family can be expected and parental responsibility continues. If the temporary care exceeds 90 days the monthly grant standard shall be as specified in WAC 388-28-136.

(iii) Attendance of a child in school when the purpose is primarily for obtaining an education or vocational training, the responsible relative retains full responsibility for the child and the child returns home during a year's period, at least for summer vacation. The monthly grant standard for a child attending school away from home shall be as specified in WAC 388-28-142. However, even temporary absence of a child from his home for this purpose makes a child ineligible for AFDC unless the attendance at the school is due to

(A) Need for specialized education and training not available in the child's home community, and such specialized education is recommended by local school authorities, or

(B) Isolation of the child's home making it necessary for him to be away from home to attend school.

(iv) Visits in which the child or responsible relative is away from home for 90 days or less, including visits of a child to a parent residing away from the child's customary family home. If the responsible relative or child leaves the home for more than 90 days, eligibility is determined in accordance with the new circumstances.

(v) Attendance in a vocational training program when it is necessary for a responsible relative to reside temporarily apart from his or her family to secure the training. Absence is considered temporary for the period of time required to complete the training program, if the responsible relative retains parental responsibility for the child during the absence and plans to return to the home upon completion of training.

(A) ESSO approval is required for the training plan. (See WAC 388-57-028(2)).

(B) A separate assistance unit shall be established for the responsible relative in training away from home.

(c) An AFDC payment can be made for a child who is a ward of the juvenile court, or other agency to whom the court has delegated authority, if all other eligibility

factors have been met and the relative of specified degree actually carries out the everyday care, control and supervision of the child.

(d) An AFDC payment cannot be made if the court, or other agency to whom the court has delegated authority, has physical custody of the child and carries out the actual day-to-day care, control and supervision of the child. [Order 1199, § 388-24-125, filed 3/18/77; Order 597, § 388-24-125, filed 9/1/71; Order 530, § 388-24-125, filed 3/31/71, effective 5/1/71; Order 441, § 388-24-125, filed 4/15/70; Regulation 6.232, filed 8/29/66; Regulation 6.232, filed 12/31/65, 6/17/64, 1/24/64.]

**WAC 388-24-135 Aid to families with dependent children—Unemployed father—Summary of eligibility conditions.** To be eligible for AFDC-E an applicant shall be a child

(1) Who is deprived of parental care and support because of the unemployment of his father or stepfather:

(a) A father or stepfather is considered to be unemployed who

(i) Is employed less than 100 hours a month, or

(ii) Exceeds that standard for a particular month if his work is intermittent and the excess is of a temporary nature as evidenced by the fact that he was under the 100-hour standard for the two prior months and is expected to be under the standard during the next month.

(b) Deprivation due to unemployment continues until the end of the month in which the father or stepfather no longer meets the definition in subdivision (1)(a).

(c) AFDC will not be denied or terminated because of certification to the WIN program or solely because of an individual's participation in institutional and work experience training or in public service employment under the WIN program.

(2) Who is living with a natural, adoptive, or stepfather and a natural, adoptive or stepmother, except that one parent or stepparent may be temporarily absent to search for employment with the expectation of continuing to live with the family.

(3) Who meets the eligibility conditions specified in WAC 388-24-040 and WAC 388-24-090 through 388-24-125.

(4) Whose father or stepfather has been unemployed as defined in subsection (1) for at least thirty days prior to the date AFDC-E is authorized.

(a) When AFDC-E is terminated due to full-time employment of the father or stepfather, no additional waiting period is required if the full-time employment ends within thirty days of termination and the individual reapplies and is found otherwise eligible for AFDC-E.

(5) Whose father or stepfather has not refused a bona fide offer of employment or training for employment or has not voluntarily left a job without good cause during the same 30-day period. (See WAC 388-57-025 and 388-57-030).

(6)(a) Whose father or stepfather verifies that he is registered for employment with the local SES office prior to the initial authorization of assistance and at the time of the periodic redetermination of eligibility as specified in WAC 388-30-125 (3)(b).

(b) In WIN areas this requirement is fulfilled by registration for WIN prior to the granting of assistance, and participation in a WIN program component at time of review.

(7) Whose father or stepfather has applied for and is accepting any unemployment compensation to which he is entitled. This requirement shall apply to recipients no later than the next regular redetermination of eligibility.

(8) Whose father or stepfather

(a) Has had six or more quarters of work within any 13-calendar quarter period ending within one year prior to the application for assistance. A "quarter of work" means a calendar quarter in which he earned income of not less than \$50, or in which he participated in the work incentive program. A "calendar quarter" means a period of three consecutive calendar months ending March 31, June 30, September 30, or December 31, or

(b) Within one year prior to his application received unemployment compensation or if the employment which he had was not covered under the unemployment compensation law of the state or the United States, his earnings were such that had his employment been covered, he would have been eligible.

(9) Whose father or stepfather

(a) In nonWIN areas is registered for and accepts on an ongoing basis employment and training services as defined in WAC 388-15-230.

(b) In WIN areas is registered for and accepts the services defined in subdivision (a) if he has not been accepted into a WIN component or status. [Order 1189, § 388-24-135, filed 2/18/77; Order 1101, § 388-24-135, filed 2/25/76; Order 1051, § 388-24-135, filed 9/10/75; Order 748, § 388-24-135, filed 12/7/72; Order 638, § 388-24-135, filed 1/28/72; Order 597, § 388-24-135, filed 9/1/71; Order 530, § 388-24-135, filed 3/31/71, effective 5/1/71; Order 338, § 388-24-135, filed 2/14/69; Order 319, § 388-24-135, filed 11/27/68; Emergency Order 305, § 388-24-135, filed 9/20/68; Order 291, § 388-24-135, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulations 6.24 and 6.241, filed 8/29/66; Regulations 6.24 and 6.241, filed 12/31/65, 7/13/65, 6/17/64 and 1/24/64.]

**WAC 388-24-137 Continuation of assistance when deprivation ceases.** (1) When deprivation due to incapacity or absence ceases and the family remains in need, the local office shall determine if any other basis for deprivation exists.

(2) If there is no deprivation due to death, unemployment or incapacity after deprivation due to absence ceases, and the family remains in need and otherwise eligible, assistance may be continued for a temporary period as follows:

(a) Assistance will be discontinued at the end of the next calendar month after deprivation due to absence ceases or at the end of the month in which the father or stepfather receives his pay for the first 100 hours of full employment after deprivation due to absence ceases, whichever is earlier.

(b) Assistance will be continued only when the change in circumstances has been reported as specified in WAC 388-30-107.



(3) If there is no other basis for deprivation after incapacity ceases and the family remains in need and otherwise eligible for AFDC-R, assistance may be continued until the end of the month following the month in which the parent's or stepparent's incapacity ceases to exist.

(a) When a formerly incapacitated father or stepfather obtains employment subsection (4) is applicable.

(4) When an unemployed father or stepfather obtains fulltime employment as defined in WAC 388-24-135(1)(a)(i) or (ii), assistance is continued, if otherwise eligible, until the end of the month in which he receives his pay for the first 100 hours of employment or until the end of the next calendar month whichever is earlier. [Order 1198, § 388-24-137, filed 3/17/77; Order 923, § 388-24-137, filed 4/15/74.]

**WAC 388-24-190 Coordination of public assistance and child welfare services—Responsibility for protective care for children.** (1) The law places responsibility with the department to provide social services to dependent, neglected, and homeless children and children in danger of becoming delinquent and authorizes the local office to accept custody of children and to provide for their care.

(2) Both the public assistance caseworker and the CWS caseworker operate under the same law. Their functions, however, are different. The public assistance caseworker is responsible for the welfare of children in families who are receiving public assistance while the responsibility of the CWS caseworker may also include services to families not receiving assistance, as well as for children in foster homes, services to unmarried mothers and other child welfare activities. Together they provide the means of development of necessary services to protect children. It is only through close coordination between the services of the public assistance and child welfare service caseworkers that the mandate of the law can be carried out.

(3) All child welfare services are based upon the principle that a child can best develop in a family setting and if at all possible with his own parents. [Order 530, § 388-24-190, filed 3/31/71, effective 5/1/71; Regulation 6.271, filed 1/24/64.]

**WAC 388-24-200 Reporting child neglect or abuse to juvenile court.** (1) When the LO has knowledge that a child receiving public assistance is being neglected, abused or in danger of becoming delinquent, and when other reasonable efforts in conjunction with other persons or agencies to correct such a condition have failed, the following action shall be taken:

(a) If the condition is not critical, the LO shall notify the juvenile court in writing of the child's situation, requesting the aid of the court for the child by whatever method the court may be able to use in this respect.

(b) If the condition is critical or if prior notice(s) have not been productive of results, and if a parent or relative of the child, or other agency of the community is unwilling to take such action, the LO shall file a petition with the court for removal of the child from the parent or other person responsible for him.

(2) This policy applies in all categories of public assistance.

(3) When, according to the above criteria, the child is endangered emotionally or physically, the difficulty shall be discussed frankly with the parents. If conditions cannot be improved to the extent that the child is properly cared for, court action should be taken so that the child can be placed in an atmosphere conducive to his welfare. [Order 530, § 388-24-200, filed 3/31/71, effective 5/1/71; Regulation 6.273, filed 1/24/64.]

**WAC 388-24-207 Aid to families with dependent children-foster care—Summary of eligibility conditions.** To be eligible for aid to families with dependent children-foster care a child shall:

(1) Meet all the eligibility requirements in WAC 388-24-040, except for his removal from his or a relative's home as specified in subsection (2); and

(2) Have been removed after April 30, 1961 from a relative's home (WAC 388-24-125) as a result of a judicial determination to the effect that remaining in the relative's home would be contrary to his welfare, for any reason, and who has been placed in foster care as a result of such determination; and

(3) Be under the direct care or supervision of the department in a licensed family foster home, nonprofit group home, or nonprofit child care institution; and

(4) Meet one of the following conditions:

(a) Be receiving AFDC for the month in which court proceedings leading to such determination were initiated, or

(b) Have been eligible to receive AFDC, had application been made, for the month in which court action for his removal was initiated, or

(c) Lived with a specified relative within six months prior to the month in which court proceedings were initiated, and would have been eligible for AFDC in and for the month in which court proceedings were initiated if in that month he had been living with such relative and application for AFDC had been made. [Order 978, § 388-24-207, filed 10/28/74; Order 530, § 388-24-207, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-207, filed 8/19/70; Order 291, § 388-24-207, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.281, filed 6/3/65; Regulation 6.281, filed 1/24/64.]

**WAC 388-24-210 Aid to families with dependent children-foster care—Assistance unit.** The AFDC foster care assistance unit shall consist of only the eligible child. [Order 530, § 388-24-210, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-210, filed 8/19/70; Order 291, § 388-24-210, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.282, filed 1/24/64.]

**WAC 388-24-215 Aid to families with dependent children-foster care—Requirements.** (1) The basic requirements of the eligible child shall be foster family home care, clothing and personal incidentals.

(2) Additional requirements for the eligible child shall be school supplies when not provided by the school,

needed transportation costs and psychological services. [Order 291, § 388-24-215, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.283, filed 1/24/64.]

**Reviser's note:** Order 530, filed 3/31/71, effective 5/1/71 states that § 388-24-215 is amended, however, an amended section was not filed with this order.

**WAC 388-24-220 Aid to families with dependent children-foster care—Standards and requirements.** (1) The basic requirements of the eligible child shall be care according to

(a) The monthly cost standards for family foster home care in WAC 388-70-042, or

(b) The monthly cost standard for foster care and related services paid by the department to licensed nonprofit child caring agencies and institutions. [Order 978, § 388-24-220, filed 10/28/74; Order 530, § 388-24-220, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-220, filed 8/19/70; Order 291, § 388-24-220, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.284, filed 1/24/64.]

**WAC 388-24-225 Aid to families with dependent children-foster care—Income and nonexempt resources.** The income and resources of the child shall be taken into consideration in determining need according to the rules in WAC 388-28-535(3). Support from parents shall be determined and secured according to the rules in WAC 388-70-075. When the child's parents receive public assistance, the parents' nonexempt income and resources are used first to meet the parents' need including the need of the parents' other minor children. [Order 978, § 388-24-225, filed 10/28/74; Order 530, § 388-24-225, filed 3/31/71, effective 5/1/71; Order 291, § 388-24-225, filed 6/12/68; Regulation 6.285, filed 1/24/64.]

**WAC 388-24-235 Aid to families with dependent children-foster care—Medical care.** Medical care shall be provided children receiving AFDC-FC in accordance with the rules and procedures which govern the granting of medical care to other children receiving care from foster care funds. [Order 530, § 388-24-235, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-235, filed 8/19/70; Order 291, § 388-24-235, filed 6/12/68; Regulation 6.287, filed 1/24/64.]

**WAC 388-24-243 Aid to families with dependent children-foster care—Nonprofit agency placement.** (1) When a child is eligible for AFDC-FC and placed with a licensed nonprofit child-caring agency, the custody, planning and casework service shall be developed and maintained by the nonprofit agency. Direct contact with the child and foster home, and casework service to the parents where appropriate, shall be maintained by the agency or institutional staff caring for the child. A quarterly progress report shall be made to the local office authorizing payment for the child's care.

(2) The local office has final responsibility for determining initial and ongoing eligibility for financial support and for approval of the placement and the plan for

child care. No payment for care shall be made without the approval of such placement and plan by the local office. This control shall be maintained through written agreements, documentary reports and supervisory conferences with the nonprofit agency. [Order 530, § 388-24-243, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-243, filed 8/19/70.]

**WAC 388-24-250 Emergency assistance to needy families with children.** (1) Emergency assistance is a federally matched program to provide prompt assistance in meeting the emergent need of a child(ren) who is, or within the preceding six months has been, living with relatives as specified in WAC 388-24-125 and who is without resources immediately available to meet his need.

(2) Emergency assistance shall be provided for the following requirements:

(a) Food, clothing and personal incidentals, shelter and household maintenance,

(b) Medical care as defined in chapter 388-86 WAC,

(c) Transportation as specified in WAC 388-24-270,

(d) Emergency foster care as described in WAC 388-70-044.

(3) Mass feeding and clothing distribution shall not be provided.

(4) Emergency assistance shall be used to meet the requirements of children and families not eligible for AFDC. [Order 1176, § 388-24-250, filed 12/23/76; Order 1004, § 388-24-250, filed 1/24/75; Order 993, § 388-24-250, filed 12/31/74; Order 969, § 388-24-250, filed 9/13/74.]

**WAC 388-24-255 Emergency assistance—Eligibility.** Emergency assistance to a needy family with children shall be provided to meet emergent needs of a child and the family with whom he lives, when the child

(1) Is under 18 years of age, and

(2) Is living with a parent or other relative as specified in WAC 388-24-125(1)(a)(i), or

(3) Has lived with such relative within the six months prior to the month in which assistance is requested;

(4) Is in financial need (see WAC 388-28-005) and the financial need is not due to his or such relative's refusal without good cause to accept employment or training for employment. [Order 1176, § 388-24-255, filed 12/23/76; Order 969, § 388-24-255, filed 9/13/74.]

**WAC 388-24-260 Emergency assistance—Standards—Duration.** (1) Standards for requirements shall be as provided in WAC 388-28-100 through 388-28-140.

(2) Emergency assistance may be paid to the recipient in cash as specified in WAC 388-33-630, or by vendor payment.

(3) Emergency assistance is limited to one period of thirty consecutive days in any twelve consecutive months.

(4) Emergency assistance may not duplicate assistance for needs which are included in a regular AFDC or SSI grant payment. [Order 1176, § 388-24-260, filed 12/23/76; Order 969, § 388-24-260, filed 9/13/74.]

**WAC 388-24-265 Emergency assistance to needy families with children—Eligible persons.** (1) Child(ren) under the age of 18 and the needy caretaker relative or relatives with whom he lives shall be eligible persons. Migrant workers with dependent children shall be eligible. An unborn child shall qualify a family when the pregnancy is confirmed.

(2) A child under the age of 18 not currently living in the home of a relative is eligible if he qualifies under WAC 388-24-255(3). [Order 969, § 388-24-265, filed 9/13/74.]

**WAC 388-24-270 Emergency assistance to needy families with children—Transportation.** (1) Transportation for the child or family shall be provided for:

(a) Returning a child or family to state of former residence when they do not intend to reside in this state and have no resources available to pay for transportation.

(b) Reaching the location of a job when the availability of the job to the specific individual has been verified, or in the case of migrant families whose usual employment is agricultural, it is known that seasonal jobs are available.

(c) Reaching a place where relatives will assume responsibility when the facts have been verified.

(2) Transportation will be paid according to the standard specified in WAC 388-28-220(2). [Order 993, § 388-24-270, filed 12/31/74; Order 969, § 388-24-270, filed 9/13/74.]

**WAC 388-24-275 Emergency assistance to needy families with children—Aliens.** Emergency assistance shall be used to meet the need of children and families not eligible for AFDC because of their alien status. See WAC 388-26-120 through 388-26-128. [Order 1004, § 388-24-275, filed 1/24/75.]

**WAC 388-24-550 Assistance to minor child.** (1) A minor is a person under the age of 18.

(2) Under state law (chapter 74.13 RCW) the department is responsible for the protection and care of homeless, dependent or neglected children or children in danger of becoming delinquent.

(3) A minor may apply in his or her own right, including an unmarried minor with a child or an unmarried pregnant minor. If the unmarried pregnant minor is requesting an abortion, parental consent is not required. The decision to proceed with an abortion rests solely with the minor. Involvement and/or consultation with parents in reaching this decision should be a matter of individual case judgment.

(4) Financial eligibility of a minor cannot be established without a determination of the parent's ability to financially support and willingness to contribute. See WAC 388-83-050(2) for responsibility for medical care. Parental contact is not required when the minor applicant

(a) is married,

(b) is in the military service.

(c) has been declared emancipated by a court of competent jurisdiction prior to the application for assistance.

(i) The minor's emancipation status is not an eligibility factor. The identification of emancipation status is necessary to determine if there is parental responsibility for support.

(d) is applying for medical assistance related to pregnancy. See WAC 388-82-015(1)(a)(i) regarding abortion.

(5) The minor applicant will be informed that there will be communication with her/his parents in the determination of eligibility, and that the juvenile court will be advised if her/his parents do not assume financial responsibility.

(6) The juvenile court will be advised of all cases in which the parents do not assume financial responsibility. [Order 1097, § 388-24-550, filed 2/13/76; Order 1049, § 388-24-550, filed 8/29/75; Order 1007, § 388-24-550, filed 2/13/75; Order 842, § 388-24-550, filed 8/9/73; Order 741, § 388-24-550, filed 11/22/72.]

### Chapter 388-26 WAC

#### AID TO FAMILIES WITH DEPENDENT CHILDREN AND CONTINUING GENERAL ASSISTANCE—ELIGIBILITY—COMMON CONDITIONS

##### WAC

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##### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-26-010	Factors common to two or more programs. [Regulation 7.00, filed 1/24/64.] Repealed by Order 531, filed 3/31/71, effective 5/1/71.
388-26-020	Age—Policies and procedures. [Regulation 7.10, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
388-26-030	Verification methods. [Regulation 7.12, filed 1/24/64.] Repealed by Resolution 217, filed 7/27/67.
388-26-035	Documentary evidence. [Regulation 7.13, filed 1/24/64.] Repealed by Resolution 217, filed 7/27/67.
388-26-085	Residence of women. [Regulation 7.252, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-090	Residence of Indians. [Regulation 7.253, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-095	Residence of inmate or patient in Washington state institution. [Order 248, § 388-26-095, filed 11/1/67; Regulation 7.254, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-100	Servicemen and their dependents. [Regulation 7.255, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-110	Residence requirements of other states. [Regulation 7.27, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-115	Residence—Verification. [Order 531, § 388-26-115, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-115, filed 7/9/69; Regulation 7.28, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.

- 388-26-122 Citizenship and alienage—Verification of citizenship. [Order 942, § 388-26-122, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77.
- 388-26-124 Citizenship and alienage—Verification of lawful admission for permanent residence in United States. [Order 942, § 388-26-124, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77.
- 388-26-126 Citizenship and alienage—Verification of permanent residence in United States under color of law. [Order 942, § 388-26-126, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77.
- 388-26-128 Citizenship and alienage—Probative value. [Order 942, § 388-26-128, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77.
- 388-26-130 Concurrent eligibility—Policies. [No history, a caption section only.] Repealed by Order 531, filed 3/31/71, effective 5/1/71.
- 388-26-135 Concurrent eligibility—Federal aid programs. [Order 531, § 388-26-135, filed 3/31/71, effective 5/1/71; Regulation 7.31, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-26-140 Concurrent eligibility—Federal aid and general assistance. [Order 531, § 388-26-140, filed 3/31/71, effective 5/1/71; Regulation 7.32, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-26-200 Transfer of property. [Order 531, § 388-26-200, filed 3/31/71, effective 5/1/71; Regulation 7.50, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-26-205 Transfer of property—Definitions. [Order 531, § 388-26-205, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-205, filed 5/26/70, effective 7/1/70; Regulation 7.51, filed 12/21/64, effective 2/1/65; Regulation 7.51, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-26-210 Transfer of property—With intent to qualify for public assistance. [Order 531, § 388-26-210, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-210, filed 5/26/70, effective 7/1/70; Regulation 7.52, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-26-215 Transfer of property—Transfer within two years prior to application. [Order 531, § 388-26-215, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-215, filed 5/26/70, effective 7/1/70; Regulation 7.53, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-26-220 Transfer of property—Adequate consideration. [Order 531, § 388-26-220, filed 3/31/71, effective 5/1/71; Regulation 7.54, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-26-225 Transfer of property—Exceptions. [Order 531, § 388-26-225, filed 3/31/71, effective 5/1/71; Regulation 7.55, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-26-230 Transfer of property—Adjustment in period of ineligibility. [Order 531, § 388-26-230, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-230, filed 5/26/70, effective 7/1/70; Regulation 7.56, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-26-235 Transfer of property—Assistance during period of ineligibility. [Order 531, § 388-26-235, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-235, filed 5/26/70, effective 7/1/70; Regulation 7.57, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-26-245 Transfer of property—Life estate, release, assignment—Adequate consideration. [Order 531, § 388-26-245, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-245, filed 5/26/70, effective 7/1/70; Order 256, § 388-26-245, filed 11/8/67; Regulation 7.58, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-26-250 State insurance commissioner's table for determining valuation of present worth of life and term estates or annuities. [Order 531, § 388-26-250, filed 3/31/71, effective 5/1/71; Order 256, § 388-26-250, filed 11/8/67; Regulation 7.581, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.

**WAC 388-26-025 Age determination—Specific considerations.** (1) Prior to authorizing a public assistance grant, the fact must be established that the applicant or person in whose behalf aid is granted is within the age limits applicable to the category of assistance from which payment will be made.

(2) Aid to families with dependent children.

(a) The birthdate of a minor child must be definitely established. AFDC may be temporarily granted when personal observation establishes the child's age as obviously within the AFDC age limit. However, the child's age must be accurately determined as soon as possible for purposes of establishing continuing eligibility.

(b) When only the year of birth can be established, the arbitrary birthdate of July 1 is assigned. [Order 917, § 388-26-025, filed 3/14/74; Order 531, § 388-26-025, filed 3/31/71, effective 5/1/71; Regulation 7.11, filed 7/27/67; Regulation 7.11, filed 1/24/64.]

**WAC 388-26-040 Age determination—Affidavit.** The affidavit of the applicant himself as to his birthdate made before a judge of the superior court or of the supreme court of the state of Washington is permitted by law. This can be used as verification by those whose own statement of their age is in question. [Order 917, § 388-26-040, filed 3/14/74; Order 531, § 388-26-040, filed 3/31/71, effective 5/1/71; Regulation 7.14, filed 7/27/67; Regulation 7.14, filed 1/24/64.]

**WAC 388-26-050 Residence.** (1) Residence as an eligibility condition in qualifying for public assistance necessitates determination of whether or not residence has been established in the state of Washington.

(2) There are no durational residence requirements for any category of public assistance. [Order 531, § 388-26-050, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-050, filed 7/9/69; Regulation 7.20, filed 6/30/67; Regulation 7.20, filed 1/24/64.]

**WAC 388-26-055 Residence—Establishing.** (1) A resident is a person who is living in the state of Washington voluntarily with the intention of making his home in the state and not for a temporary purpose; that is, one who has indicated his intent to maintain his residence in the state and has no intention of presently leaving the state to take up residence.

(2) The local office is not required to find that an applicant is a resident of Washington if he is determined to be a bona fide resident of another state; in other words, that he is temporarily absent from another state and has not chosen to acquire a residence in this state.

(3) Residence may not depend upon the reason for which the individual entered except insofar as it may show whether he is in the state of Washington voluntarily or for a temporary purpose. [Order 531, § 388-26-055, filed 3/31/71, effective 5/1/71; Order 513, § 388-26-055, filed 1/15/71; Order 366, § 388-26-055, filed 7/9/69; Regulation 7.21, filed 6/30/67; Regulation 7.21, filed 1/24/64.]

**WAC 388-26-060 Residence—Maintaining.** (1) A person is considered to have maintained his residence

in Washington if, since establishing it, he has not left the state except as specified below.

(2) Absences from the state prior to application are not considered as having interrupted residence when

(a) The absences were enforced or beyond the control of the person, or

(b) The absences were for temporary periods and occurred for specific purposes, which did not involve an intent to change residence and did include a plan for return at a future date.

(3) An applicant who meets the residence requirements and is otherwise eligible may not be disqualified from receiving assistance solely because of the fact that he has, in the past, received assistance from another state or a political subdivision thereof. The LO cannot use the fact that the applicant has been receiving assistance from another state as the basis for determining that such individual is not a resident of Washington.

(4) It is assumed that any person who removes himself from the state of Washington for more than a temporary visit is no longer residing in the state of Washington unless he can present positive evidence to the contrary. No assistance shall be granted to any person who is not residing in the state of Washington according to this assumption. See WAC 388-33-240 pertaining to "visit". A recipient remaining out of the state for more than one month must supply adequate information to overcome the assumption that he no longer intends to reside in the state of Washington.

(5) Assistance can only be continued if the recipient remains in need and can fulfill all eligibility requirements, such as, referral to WIN or other rehabilitative resources, current registration for work, maintenance of services to children, etc.

(6) Noncontinuing GA is not paid to persons outside the state. [Order 1241, § 388-26-060, filed 9/23/77; Order 531, § 388-26-060, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-060, filed 7/9/69; Regulation 7.22, filed 6/30/67; Regulation 7.22, filed 1/24/64.]

**WAC 388-26-065 Residence—Applicant living in another state.** A person applying to Washington for a public assistance grant while living in another state or country may meet the residence requirement if

(1) He offers convincing proof that he has maintained residence in this state since leaving it. "Proof" shall be more than a "statement of intent" to maintain residence in Washington. The intent must be evidenced by prior acts of a specific nature which bear out the intent and which can be demonstrated. Acceptable evidence may be return trips to this state, written statements to other persons, maintenance of a home in this state, or other such actions;

(2) He once lived and acquired residence in this state and his absence is

(a) Enforced and beyond his control, or

(b) Essential to his welfare and due to his physical or social needs, and

(c) He continues his intention of maintaining his residence in the state of Washington and has a plan to return to the state;

(3) He is living in the United States at the time of application;

(4) Arrangements can be made to have the application taken by a public assistance agency and the necessary investigation made to process the application in accordance with Washington rules. [Order 531, § 388-26-065, filed 3/31/71, effective 5/1/71; Order 489, § 388-26-065, filed 10/30/70, effective 12/1/70; Order 366, § 388-26-065, filed 7/9/69; Regulation 7.23, filed 1/24/64.]

**WAC 388-26-070 Residence—Applicant receiving assistance from another state.** An applicant who is a recipient of assistance from another state shall be eligible for assistance in Washington when he satisfies the residence requirement of Washington and is otherwise eligible. However, assistance from Washington shall not be authorized until eligibility for assistance from the other state ceases and the grant from the other state is terminated. [Order 976, § 388-26-070, filed 10/28/74; Order 917, § 388-26-070, filed 3/14/74; Order 531, § 388-26-070, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-070, filed 7/9/69; Regulation 7.24, filed 1/24/64.]

**WAC 388-26-080 Residence—Of children.** A child is residing in the state of Washington if he is making his home in the state. [Order 531, § 388-26-080, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-080, filed 7/9/69; Regulation 7.251, filed 1/24/64.]

**WAC 388-26-105 Residence—Authorizing return of Washington resident.** (1) When an inquiry is received regarding whether or not a person is a resident of the state of Washington, or should move to the state of Washington, the LO shall

(a) Investigate the pertinent facts relative to the inquiry.

(b) Furnish the other state with pertinent information and, when appropriate, give social facts which indicate whether residence in the state of Washington is or is not in the interest of the individual's welfare.

(c) Inform the inquiring state that the department has no legal authority to authorize the return of individuals to the state or to pay costs of such return. [Order 531, § 388-26-105, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-105, filed 7/9/69; Regulation 7.26, filed 1/24/64.]

**WAC 388-26-120 Citizenship and alienage.** (1) To be eligible for AFDC or continuing general assistance a resident shall be either

(a) a citizen or

(b) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the immigration and nationality act).

(2) An applicant or recipient's statement of citizenship or resident alien status as specified in subsection

(1)(b) shall be accepted as evidence not requiring corroborating documentation.

(3) If the local office receives substantial evidence that an individual has falsely declared citizenship or alien status the local office shall require verification. [Order 942, § 388-26-120, filed 6/26/74.]

**WAC 388-26-145 Citizenship and alienage—Program preferences.** An individual who is eligible for AFDC benefits and who also is eligible for SSI benefits has the right to elect which program he wishes to enter and which benefits he wishes to claim. An individual may not receive AFDC and SSI benefits concurrently. [Order 910, § 388-26-145, filed 3/1/74; Order 606, § 388-26-145, filed 9/22/71; Order 531, § 388-26-145, filed 3/31/71, effective 5/1/71; Regulation 7.33, filed 1/24/64.]

**WAC 388-26-149 Property transfer.** Transfer of property may affect current and future eligibility of the applicant or recipient. See WAC 388-28-457 through 388-28-473 for policies regarding the effect of property transfers on need. [Order 1241, § 388-26-149, filed 9/23/77.]

### Chapter 388-28 WAC

#### AID TO FAMILIES WITH DEPENDENT CHILDREN AND CONTINUING GENERAL ASSISTANCE—ELIGIBILITY NEED

##### WAC

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**Reviser's note:** Administrative Order No. 532 filed with the Code Reviser on March 31, 1971 purported to adopt editorial revisions to Chapter 388-28 WAC relating to eligibility for public assistance. Emergency Order No. 559, filed 4/30/71 and Permanent Order 574, filed 6/22/71 repealed Order 532, filed 3/31/71 before its effective date of May 1, 1971.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-28-010	Standards for requirements—Person in own home. [Order 561, § 388-28-010, filed 5/5/71; Order 521, § 388-28-010, filed 3/2/71; Order 442, § 388-28-010, filed 4/15/70; Regulation 8.11, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-28-020	Standards for requirements—Family relationships. [Order 963, § 388-28-020, filed 8/19/74; Order 917, § 388-28-020, filed 3/14/74; Order 742, § 388-28-020, filed 11/22/72; Order 650, § 388-28-020, filed 2/9/72; Order 561, § 388-28-020, filed 5/5/71; Order 521, § 388-28-020, filed 3/2/71; Order 442, § 388-28-020, filed 4/15/70; Regulation 8.12, filed 6/14/66;

- Regulation 8.12, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-025 Standards for requirements—Limitations on requirements. [Order 917, § 388-28-025, filed 3/14/74; Regulation 8.13, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-030 Assistance unit—Supplemental security income beneficiary excluded. [Order 943, § 388-28-030, filed 6/28/74.] Repealed by Order 1241, filed 9/23/77.
- 388-28-035 Assistance units—Aid to blind, old age assistance and disability assistance. [Emergency Order 613, § 388-28-035, filed 10/1/71; Order 604, § 388-28-035, filed 9/22/71; Order 292, § 388-28-035, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.141, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-040 Assistance units—Aid to families with dependent children. [Order 823, § 388-28-040, filed 7/26/73; Emergency Order 613, § 388-28-040, filed 10/1/71; Order 604, § 388-28-040, filed 9/22/71; Order 292, § 388-28-040, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.142, filed 8/29/66; Regulation 8.142, filed 6/14/66, 1/24/64.] Repealed by Order 978, filed 10/28/74.
- 388-28-045 Assistant units—Disability assistance. [Order 292, § 388-28-045, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.143, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.
- 388-28-050 Assistance units—Continuing general assistance. [Order 650, § 388-28-050, filed 2/9/72; Order 619, § 388-28-050, filed 10/27/71; Order 345, § 388-28-050, filed 4/16/69; Order 292, § 388-28-050, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.144, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-28-055 Assistance units—Housekeeper. [Order 917, § 388-28-055, filed 3/14/74; Order 650, § 388-28-055, filed 2/9/72; Regulation 8.145, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-060 Assistance units—Computing and allocating basic requirements of person in own home. [Order 345, § 388-28-060, filed 4/16/69; Regulation 8.15, filed 7/13/65; Regulation 8.15, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-065 Assistance units—Food, clothing, personal maintenance and necessary incidentals. [Order 345, § 388-28-065, filed 4/16/69; Regulation 8.151, filed 3/31/66; Regulation 8.151, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-070 Assistance units—Shelter. [Order 345, § 388-28-070, filed 4/16/69; Regulation 8.152, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-075 Assistance units—Household maintenance. [Order 345, § 388-28-075, filed 4/16/69; Order 292, § 388-28-075, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.153, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-080 Monthly cost of basic requirements—Maximums—Person in own home—Person in medical institution. [Order 1131, § 388-28-080, filed 7/8/76; Order 963, § 388-28-080, filed 8/19/74; Order 902, § 388-28-080, filed 1/29/74; Order 650, § 388-28-080, filed 2/9/72; Order 561, § 388-28-080, filed 5/5/71; Order 521, § 388-28-080, filed 3/2/71; Regulation 8.20, filed 7/27/67; Regulation 8.20, filed 8/29/66, 3/31/66, 12/31/65, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-085 Monthly cost of basic requirements as adjusted for maximum grant limitations—Food. [Order 561, § 388-28-085, filed 5/5/71; Order 521, § 388-28-085, filed 3/2/71; Order 375, § 388-28-085, filed 8/7/69; Regulation 8.21, filed 7/27/67; Regulation 8.21, filed 2/23/67, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-090 Monthly cost of basic requirements as adjusted for maximum grant limitations—Clothing. [Order 561, § 388-28-090, filed 5/5/71; Order 521, § 388-28-090, filed 3/2/71; Order 375, § 388-28-090, filed 8/7/69; Regulation 8.22, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-095 Monthly cost of basic requirements as adjusted for maximum grant limitations—Personal maintenance and necessary incidentals. [Order 561, § 388-28-095, filed 5/5/71; Order 521, § 388-28-095, filed 3/2/71; Order 375, § 388-28-095, filed 8/7/69; Regulation 8.23, filed 7/27/67; Regulation 8.23, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-098 Increases in monthly standards for basic requirements. [Order 927, § 388-28-098, filed 4/15/74.] Repealed by Order 963, filed 8/19/74. This section was repealed before publication in WAC.
- 388-28-100 Monthly standards for basic requirements—AFDC and continuing general assistance. [Order 1234, § 388-28-100, filed 8/31/77; Order 1145, § 388-28-100, filed 8/26/76; Order 1101, § 388-28-100, filed 2/25/76; Order 1040, § 388-28-100, filed 8/7/75; Order 993, § 388-28-100, filed 12/31/74; Order 963, § 388-28-100, filed 8/19/74 (§ 388-28-100 was repealed by Order 930, filed 4/25/74 and filed as amended by subsequent orders); Order 902, § 388-28-100, filed 1/29/74; Order 823, § 388-28-100, filed 7/26/73; Order 744, § 388-28-100, filed 11/30/72; Order 724, § 388-28-100, filed 10/12/72; Order 650, § 388-28-100, filed 2/9/72.] Repealed by Order 1241, filed 9/23/77.
- 388-28-105 Increases in monthly standards for basic requirements—Shelter. [Order 561, § 388-28-105, filed 5/5/71; Order 521, § 388-28-105, filed 3/2/71; Order 375, § 388-28-105, filed 8/7/69; Regulation 8.241, filed 7/27/67; Regulation 8.241, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-110 Monthly cost of basic requirements—Home ownership. [Order 375, § 388-28-110, filed 8/7/69; Regulation 8.242, filed 7/27/67; Regulation 8.242, filed 2/23/67, 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-115 Monthly cost of basic requirements as adjusted for maximum grant limitations—Supplied shelter. [Order 521, § 388-28-115, filed 3/2/71; Regulation 8.243, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.
- 388-28-125 Monthly cost of basic requirements as adjusted for maximum grant limitations—Household maintenance—Utilities—Household supplies. [Order 521, § 388-28-125, filed 3/2/71; Order 375, § 388-28-125, filed 8/7/69; Regulation 8.251, filed 7/27/67; Regulation 8.251, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-130 Fuel for space heating. [Order 521, § 388-28-130, filed 3/2/71; Order 375, § 388-28-130, filed 8/7/69; Regulation 8.252, filed 7/27/67; Regulation 8.252, filed 2/23/67, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-133 Maximums to monthly standards for basic requirements. [Order 1234, § 388-28-133, filed 8/31/77; Order 1145, § 388-28-133, filed 8/26/76; Order 1040, § 388-28-133, filed 8/7/75; Order 963, § 388-28-133, filed 8/19/74; Order 927, § 388-28-133, filed 4/15/74; Order 902, § 388-28-133, filed 1/29/74; Order 823, § 388-28-133, filed 7/26/73; Order 721, § 388-28-133, filed 9/28/72; Order 650, § 388-28-133, filed 2/9/72; Order 561, § 388-28-133, filed 5/5/71.] Repealed by Order 1241, filed 9/23/77.
- 388-28-134 Additional monthly allowance for noninstitutionalized adult recipient of continuing general assistance. [Order 1052, § 388-28-134, filed 10/9/75; Order 917, § 388-28-134, filed 3/14/74; Order 823, § 388-28-134, filed 7/26/73; Order 721, § 388-28-134, filed 9/28/72.] Repealed by Order 1234, filed 8/31/77.
- 388-28-135 Standards for requirements—Transportation—Old age and aid to blind assistance only. [Order 442, §

- 388-28-135, filed 4/15/70; Order 375, § 388-28-135, filed 8/7/69; Regulation 8.26, filed 7/27/67, 2/23/67, 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-136 Cost standards for requirements—Person in medical institution. [Order 1145, § 388-28-136, filed 8/26/76; Order 1052, § 388-28-136, filed 9/10/75; Order 1017, § 388-28-136, filed 4/14/75.] Repealed by Order 1241, filed 9/23/77.
- 388-28-137 Cost standards for requirements—Person in congregate care facility. [Order 1234, § 388-28-137, filed 8/31/77; Order 1145, § 388-28-137, filed 8/26/76; Order 1076, § 388-28-137, filed 12/17/75; Order 1052, § 388-28-137, filed 9/10/75; Order 1017, § 388-28-137, filed 4/14/75.] Repealed by Order 1241, filed 9/23/77.
- 388-28-138 Cost standards for requirements—Maternity home care. [Order 1234, § 388-28-138, filed 8/31/77; Order 1116, § 388-28-138, filed 4/28/76.] Repealed by Order 1241, filed 9/23/77.
- 388-28-140 Monthly standards for basic requirements—AFDC—Child living with relative not in need. [Order 1234, § 388-28-140, filed 8/31/77; Order 1145, § 388-28-140, filed 8/26/76; Order 1052, § 388-28-140, filed 9/10/75; Order 1007, § 388-28-140, filed 2/13/75; Order 976, § 388-28-140, filed 10/28/74; Order 902, § 388-28-140, filed 1/29/74; Order 823, § 388-28-140, filed 7/26/73; Order 650, § 388-28-140, filed 2/9/72; Order 375, § 388-28-140, filed 8/7/69; Order 346, § 388-28-140, filed 4/16/69; Regulation 8.27, filed 7/27/67; Regulation 8.27, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-142 Monthly standards for basic requirements—AFDC—Child in need of specialized education or training. [Order 1234, § 388-28-142, filed 8/31/77; Order 1052, § 388-28-142, filed 9/10/75; Order 823, § 388-28-142, filed 7/26/73; Order 650, § 388-28-142, filed 2/9/72; Order 561, § 388-28-142, filed 5/5/71; Order 521, § 388-28-142, filed 3/2/71; Order 346, § 388-28-142, filed 4/16/69.] Repealed by Order 1241, filed 9/23/77.
- 388-28-150 Standards for additional requirements under specified circumstances. [Order 1176, § 388-28-150, filed 12/23/76; Order 650, § 388-28-150, filed 2/9/72; Regulation 8.30, filed 7/27/67; Regulation 8.30, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-160 Standards for additional requirements under specified circumstances—Board. [Order 823, § 388-28-160, filed 7/26/73; Order 650, § 388-28-160, filed 2/9/72; Order 521, § 388-28-160, filed 3/2/71; Order 375, § 388-28-160, filed 8/7/69; Regulation 8.311, filed 7/27/67; Regulation 8.311, filed 2/23/67, 1/24/64.] Repealed by Order 1052, filed 9/10/75.
- 388-28-165 Standards for additional requirements under specified circumstances—Restaurant meals. [Order 1234, § 388-28-165, filed 8/31/77; Order 1145, § 388-28-165, filed 8/26/76; Order 1052, § 388-28-165, filed 9/10/75; Order 823, § 388-28-165, filed 7/26/73; Order 650, § 388-28-165, filed 2/9/72; Order 521, § 388-28-165, filed 3/2/71; Order 375, § 388-28-165, filed 8/7/69; Regulation 8.312, filed 7/27/67; Regulation 8.312, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-170 Standards for additional requirements under specified circumstances—Daily restaurant meals. [Order 1234, § 388-28-170, filed 8/31/77; Order 1145, § 388-28-170, filed 8/26/76; Order 1052, § 388-28-170, filed 9/10/75; Order 902, § 388-28-170, filed 1/29/74; Order 823, § 388-28-170, filed 7/26/73; Order 650, § 388-28-170, filed 2/9/72; Order 375, § 388-28-170, filed 8/7/69; Regulation 8.313, filed 7/27/67; Regulation 8.313, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-180 Standards for additional requirements under specified circumstances—Home delivered meals (Meals-On-Wheels). [Order 650, § 388-28-180, filed 2/9/72; Regulation 8.315, filed 7/27/67; Regulation 8.315, filed 12/21/64, effective 2/1/65.] Repealed by Order 1241, filed 9/23/77.
- 388-28-185 Standards for additional requirements under specified circumstances—Personal and household service in own home—Adult without minor children in household. [Order 393, § 388-28-185, filed 10/15/69; Regulation 8.32, filed 12/21/64, effective 2/1/65; Regulation 8.32, filed 1/24/64.] Repealed by Order 601, filed 9/8/71.
- 388-28-190 Standards for additional requirements under specified circumstances—Determination of need for service. [Order 393, § 388-28-190, filed 10/15/69; Regulation 8.321, filed 3/21/67; Regulation 8.321, filed 12/21/64.] Repealed by Order 601, filed 9/8/71.
- 388-28-195 Standards for additional requirements under specified circumstances—Cost standard. [Order 393, § 388-28-195, filed 10/15/69; Regulation 8.322, filed 3/21/67; Regulation 8.322, filed 12/24/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-200 Monthly cost of basic requirements as adjusted for maximum grant limitations—Computation of payment for personal and household services in kind. [Order 561, § 388-28-200, filed 5/5/71; Order 521, § 388-28-200, filed 3/2/71; Regulation 8.323, filed 12/21/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-205 Standards for additional requirements under specified circumstances—Old age and survivors insurance tax. [Regulation 8.324, filed 12/21/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-210 Standards for additional requirements under specified circumstances—Personal and household service in own home for adult without minor children in household—Continuing eligibility for services. [Order 403, § 388-28-210, filed 11/24/69; Order 375, § 388-28-210, filed 8/7/69; Regulation 8.325, filed 7/27/67; Regulation 8.325, filed 12/24/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-220 Standards for additional requirements under specified circumstances—Transportation to state of legal residence. [Order 969, § 388-28-220, filed 9/13/74; Order 650, § 388-28-220, filed 2/9/72; Regulation 8.33, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-225 Standards for additional requirements under specified circumstances—Food for guide dog. [Order 1234, § 388-28-225, filed 8/31/77; Order 1145, § 388-28-225, filed 8/26/76; Order 1052, § 388-28-225, filed 9/10/75; Order 902, § 388-28-225, filed 1/29/74; Order 823, § 388-28-225, filed 7/26/73; Order 650, § 388-28-225, filed 2/9/72; Order 375, § 388-28-225, filed 8/7/69; Order 268, § 388-28-225, filed 12/5/67; Regulation 8.34, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-230 Standards for additional requirements under specified circumstances—Telephone. [Order 650, § 388-28-230, filed 2/9/72; Regulation 8.35, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-235 Standards for additional requirements under specified circumstances—Laundry. [Order 1234, § 388-28-235, filed 8/31/77; Order 1145, § 388-28-235, filed 8/26/76; Order 1052, § 388-28-235, filed 9/10/75; Order 823, § 388-28-235, filed 7/26/73; Order 650, § 388-28-235, filed 2/9/72; Order 268, § 388-28-235, filed 12/5/67; Regulation 8.36, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-245 Standards for additional requirements under specified circumstances—Housekeeping service in household with minor children. [Order 650, § 388-28-245, filed 2/9/72; Order 375, § 388-28-245, filed 8/7/69; Order 268, § 388-28-245, filed 12/5/67; Regulation 8.38, filed 12/21/64, effective 2/1/65; Regulation 8.83, filed 1/24/64.] Repealed by Order 1088, filed 1/19/76.
- 388-28-250 Standards for additional requirements under specified circumstances—Cost of participating in supplemental medical insurance benefits (SMIB) under Title



- XVIII-B of the Social Security Act. [Emergency Order 290, § 388-28-250, filed 5/1/68; Regulation 8.39, filed 8/29/66.] Repealed by Order 292, filed 6/12/68.
- 388-28-251 Winterizing homes. [Order 1045, § 388-28-251, filed 8/14/75.] Repealed by Order 1241, filed 9/23/77.
- 388-28-260 Requirements of person in boarding home—Continuing general assistance. [Order 1234, § 388-28-260, filed 8/31/77; Order 1145, § 388-28-260, filed 8/26/76; Order 1052, § 388-28-260, filed 9/10/75; Order 902, § 388-28-260, filed 1/29/74; Order 823, § 388-28-260, filed 7/26/73; Order 731, § 388-28-260, filed 10/27/72; Order 650, § 388-28-260, filed 2/9/72; Order 521, § 388-28-260, filed 3/2/71; Order 375, § 388-28-260, filed 8/7/69; Regulation 8.411, filed 7/27/67; Regulation 8.411, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-270 Requirements of person in boarding home—Clothing—Aid to blind, disability assistance, old age assistance, general assistance—unemployable. [Order 521, § 388-28-270, filed 3/2/71; Regulation 8.412, filed 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-275 Requirements of person in boarding home—Personal maintenance and necessary incidentals—Aid to blind, disability assistance, old age assistance, general assistance—unemployable. [Order 521, § 388-28-275, filed 3/2/71; Regulation 8.413, filed 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-280 Requirements of person with other living arrangements—Transportation. [Regulation 8.414, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-285 Requirements of person in boarding home—Additional requirements. [Order 917, § 388-28-285, filed 3/14/74; Order 375, § 388-28-285, filed 8/7/69; Regulation 8.415, filed 7/27/67; Regulation 8.415, filed 8/29/66, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-290 Requirements of person with other living arrangements—Institutional living arrangement. [Order 375, § 388-28-290, filed 8/7/69; Regulation 8.42, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-292 Adult family home—Care defined. [Order 455, § 388-28-292, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-293 Adult family home—Determination of need for care and placement. [Order 455, § 388-28-293, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-294 Adult family home care—Cost standards. [Order 1234, § 388-28-294, filed 8/31/77; Order 1145, § 388-28-294, filed 8/26/76; Order 1052, § 388-28-294, filed 9/10/75; Order 963, § 388-28-294, filed 8/19/74; Order 902, § 388-28-294, filed 1/29/74; Order 823, § 388-28-294, filed 7/26/73; Order 731, § 388-28-294, filed 10/27/72; Order 650, § 388-28-294, filed 2/9/72; Order 552, § 388-28-294, filed 4/1/71; Order 455, § 388-28-294, filed 5/18/70.] Repealed by Order 1241, filed 9/23/77.
- 388-28-295 Adult family home—Standards for payment approval. [Order 455, § 388-28-295, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-296 Adult family home—Standards for home and sponsor. [Order 455, § 388-28-296, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-297 Adult family home—Services to be provided. [Order 455, § 388-28-297, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-298 Adult family home—Application for approval for payment—Home study. [Order 635, § 388-28-298, filed 1/13/72; Order 455, § 388-28-298, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-305 Property rights and entitlements—Rights inherent in relationship. [Order 942, § 388-28-305, filed 6/26/74; Order 703, § 388-28-305, filed 8/11/72; Order 445, § 388-28-305, filed 4/28/70; Regulation 8.51, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-315 Property rights and entitlements—Support for dependent children—Parents' responsibility. [Order 942, § 388-28-315, filed 6/26/74; Order 703, § 388-28-315, filed 8/11/72; Order 619, § 388-28-315, filed 10/27/71; Order 481, § 388-28-315, filed 9/29/70, effective 11/1/70; Regulation 8.521, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-320 Property rights and entitlements—Absent parent's responsibility—Liability—Recovery. [Order 942, § 388-28-320, filed 6/26/74; Order 703, § 388-28-320, filed 8/11/72; Order 481, § 388-28-320, filed 9/29/70, effective 11/1/70; Regulation 8.522, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-323 Property rights and entitlements—Applicant or recipient responsibility. [Order 942, § 388-28-323, filed 6/26/74; Order 703, § 388-28-323, filed 8/11/72; Order 616, § 388-28-323, filed 10/13/71; Order 481, § 388-28-323, filed 9/29/70, effective 11/1/70.] Repealed by Order 1054, filed 9/25/75.
- 388-28-325 Support for dependent children—Obtaining support from absent parent. [Regulation 8.523, filed 1/24/64.] Repealed by Order 481, filed 9/29/70, effective 11/1/70.
- 388-28-330 Support enforcement services. [Regulation 8.524, filed 1/24/64.] Repealed by Order 481, filed 9/29/70, effective 11/1/70.
- 388-28-335 Support enforcement services—Budgeting payments. [Order 274, § 388-28-335, filed 1/29/68; Emergency Order 272, § 388-28-335, filed 12/29/67; Regulation 8.525, filed 1/24/64.] Repealed by Order 481, filed 9/29/70, effective 11/1/70.
- 388-28-337 Property rights and entitlements—Full grant plan. [Order 942, § 388-28-337, filed 6/26/74; Order 703, § 388-28-337, filed 8/11/72; Order 616, § 388-28-337, filed 10/13/71; Order 481, § 388-28-337, filed 9/29/70, effective 11/1/70; Order 274, § 388-28-337, filed 1/29/68; Emergency Order 272, § 388-28-337, filed 12/29/67.] Repealed by Order 1054, filed 9/25/75.
- 388-28-338 Support for dependent children—Optional support plans. [Order 616, § 388-28-338, filed 10/13/71; Order 481, § 388-28-338, filed 9/29/70, effective 11/1/70.] Repealed by Order 703, filed 8/11/72.
- 388-28-340 Property rights and entitlement—Establishment of paternity of illegitimate child. [Order 942, § 388-28-340, filed 6/26/74; Order 703, § 388-28-340, filed 8/11/72; Order 664, § 388-28-340, filed 3/23/72; Order 616, § 388-28-340, filed 10/13/71; Order 481, § 388-28-340, filed 9/29/70, effective 11/1/70; Regulation 8.526, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-343 Confidentiality. [Order 942, § 388-28-343, filed 6/26/74.] Repealed by Order 1054, filed 9/25/75.
- 388-28-345 Confidentiality—Procedures affecting abandoned child. [Order 889, § 388-28-345, filed 12/27/73; Order 703, § 388-28-345, filed 8/11/72; Order 481, § 388-28-345, filed 9/29/70, effective 11/1/70; Regulation 8.527, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-395 Community, separate and jointly owned property—Premium for supplementary medical insurance—Title XVIII, Part B. [Order 292, § 388-28-395, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.571, filed 12/31/65, effective 7/1/66.] Repealed by Order 917, filed 3/14/74.
- 388-28-490 Use of income and income potentials—Recording net cash income computation. [Regulation 8.821, filed 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-550 Net cash income—Income for education or vocational training. [Order 749, § 388-28-550, filed 12/7/72; Order 375, § 388-28-550, filed 8/7/69; Order 296, § 388-28-550, filed 8/26/68; Regulation 8.845, filed 5/17/67; Regulation 8.845, filed 2/3/67, 12/31/65, 1/24/64.] Repealed by Order 891, filed 12/27/73.
- 388-28-605 Net cash income—Produce and supplied food. [Order 521, § 388-28-605, filed 3/2/71; Regulation 8.851, filed 7/13/65; Regulation 8.851, filed 3/11/65, 1/24/64.] Repealed by Order 561, filed 5/5/71.

- 388-28-610 Net cash income—Fuel, water, electricity. [Order 521, § 388-28-610, filed 3/2/71; Regulation 8.852, filed 7/13/65; Regulation 8.852, filed 1/24/64.] Repealed by Order 561, filed 5/5/71.
- 388-28-615 Net cash income—Shelter. [Order 521, § 388-28-615, filed 3/2/71; Regulation 8.853, filed 3/31/66; Regulation 8.853, filed 7/13/65, 1/24/64.] Repealed by Order 561, filed 5/5/71.
- 388-28-625 Net cash income—Annual gross value of supplied food per person by number of months and proportions available. [Regulation 8.854, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-630 Aid to the blind applicant with self-support plan. [Regulation 8.86, filed 6/30/67; Regulation 8.86, filed 6/30/74, 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-635 Aid to the blind applicant with self-support plan—Approval of aid to the blind applicant's self-support plan. [Regulation 8.861, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-640 Aid to the blind applicant with self-support plan—Comparing requirements' costs with values of nonexempt resources and income to determine financial need and to authorize grant. [Regulation 8.90, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.
- 388-28-645 Aid to the blind applicant with self-support plan—Eligibility or ineligibility of applicant. [Regulation 8.91, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.

**WAC 388-28-005 Financial need—Rules and procedures.** (1) To be eligible for public assistance an applicant must be in financial need. Financial need exists when the applicant's requirements as hereinafter specified and adjusted for the maximum grant limitations exceed the value of nonexempt resources currently possessed and the amount of his nonexempt recurrent and nonrecurrent income. The difference thus computed represents the extent of need which exists.

(2) The rules in chapter 388-28 WAC governing determination of an applicant's financial need for assistance also govern the determination of the continuing need of a recipient unless specifically stated otherwise.

(3) Need is subject to change whenever the recipient's financial circumstances change in such a way that the cost of his requirements or his income is increased or decreased in relation to the standards for assistance. [Order 1241, § 388-28-005, filed 9/23/77; Order 561, § 388-28-005, filed 5/5/71; Regulation 8.00, filed 1/24/64.]

**WAC 388-28-155 Standards for additional requirements under specified circumstances—Child care expenses for employed person.** (1) The expense of child care shall be authorized as an additional requirement only when financial services has determined the care is necessary due to employment and there is no one reasonably available to perform such service without cost, except that child care expenses for employed WIN participants shall be authorized as specified in WAC 388-57-057.

(2) The cost allowed for child care shall be the most reasonable which can be obtained for the type of care required, not to exceed the following standards.

(a) Out-of-home day care

(i) The part time payment standard for day care of less than seven hours per day shall not exceed 92 cents per hour for each child.

(ii) The full time payment standard for day care of seven hours or more per day shall not exceed \$6.42 per day for each child.

(A) The full time payment standard may be adjusted to accommodate unusual work schedules, provided the total amount authorized does not exceed \$32.10 per week of full time day care for each child.

(b) In-home child care

(i) The payment standard for in-home care shall not exceed 92 cents per hour for the care of three children or less in the family, or \$1.19 per hour for care of four or more children in the family.

(ii) If total payments to an individual providing in-home care are expected to be \$50 or more in any one quarter, the employer's share of the FICA tax must be added to the amount authorized for in-home care.

(3) No payments shall be allowed for child care provided by the child's parent or stepparent. [Order 1236, § 388-28-155, filed 8/31/77.]

**WAC 388-28-300 Property rights and entitlements.** Wac 388-28-300 through 388-28-392 deal with rules governing rights to property as these affect eligibility for public assistance. "Property" as used in this section includes both "resources" and "income" as defined in WAC 388-28-030. [Order 1241, § 388-28-300, filed 9/23/77; Order 445, § 388-28-300, filed 4/28/70; Regulation 8.50, filed 1/24/64.]

**WAC 388-28-350 Confidentiality—Stepparent responsibility.** (1) The income and resources of a stepparent are deemed to be available to meet the requirements of the stepchild and its parent in the same manner as the income and resources of the natural or adoptive parent. See WAC 388-28-560.

(2) The stepparent's responsibility for support ceases when the marriage is terminated by death or divorce.

(3) The natural parent of such child is not relieved of a legal obligation to support his child by this provision. [Order 1132, § 388-28-350, filed 7/8/76; Order 481, § 388-28-350, filed 9/29/70, effective 11/1/70; Regulation 8.53, filed 1/24/64.]

**WAC 388-28-355 Confidentiality—Presumptive spouse.** (1) When a dependent child lives with one parent and another person whom the department presumes to be the spouse but who is not legally married to the parent:

(a) The parent must declare those portions of the income and resources of the presumptive spouse which are provided voluntarily for the support of the child(ren) and the parent.

(b) Only such income and resources which have been stipulated by the parent to be actually available on a regular basis to meet the needs of the parent and child(ren) shall be considered in determining the income available to the parent and child(ren).

(2) Unwillingness of the presumptive spouse to contribute does not affect the child's eligibility for assistance.

(3) The presumptive spouse who is not a recipient shall not be considered as a member of the household in

computing and allocating basic requirements. The needs of the presumptive spouse may not be included in the assistance unit — see WAC 388-24-050(4), 388-28-020 and 388-28-080(3).

(4) The natural parent is not relieved of a legal obligation to support his child by contributions from the presumptive spouse toward the child's support. [Order 1018, § 388-28-355, filed 4/23/75; Order 786, § 388-28-355, filed 4/12/73; Order 650, § 388-28-355, filed 2/9/72; Order 481, § 388-28-355, filed 9/29/70, effective 11/1/70; Order 445, § 388-28-355, filed 4/28/70; Regulation 8.54, filed 6/14/66; Regulation 8.54, filed 1/24/64.]

**WAC 388-28-360 Community, separate and jointly owned property—Community property.** (1) All property, either real or personal, held in the name of either the husband or wife or both is presumed to be community property. Any income received by either the husband or wife is presumed to be community income. The earnings of the husband, or wife, or both, if not legally separated, are community income.

(2) Property subject to the disposition of either the applicant or his (her) spouse, is presumed to be community property for the purpose of determining eligibility. This presumption stands until overcome by positive evidence to the contrary.

(3) Community property is considered to constitute a resource available to the family unit and hence to both or either spouse. Each member of the marital community shall have his or her eligibility determined on the basis of a family unit and on the basis of the total community property holdings and income, regardless of whether one or both are applicants. [Regulation 8.551, filed 1/24/64.]

**WAC 388-28-365 Community, separate and jointly owned property—Separate property.** (1) Property is considered as separate property when it has been established that it was acquired (and paid for) by either spouse before marriage, or as a result of gift or inheritance, or was acquired and paid for entirely out of income from separate property. A commingling of community income and income from separate property in the purchase or improvement of property probably destroys the status of separate property.

(2) The husband's separate property and income therefrom and the earnings, if not legally separated, are regarded as community property or earnings and as available to the wife since the husband is required by law to support his wife and she is provided a means by which she can enforce such support.

(3) The wife's separate property, her income from separate property and her earnings if not legally separated, are presumed to be resources available to her husband unless and until it is definitely established that they are in fact not available to meet the requirements of the husband. [Regulation 8.552, filed 1/24/64.]

**WAC 388-28-370 Community, separate and jointly owned property—Further considerations for determining property of husband and wife.** (1) Transfer of his

separate property by the husband does not disqualify the wife, but he may not be included in her grant.

(2) Separate resources or income of a wife shall be presumed to be available to meet the requirements of a husband when:

(a) They are living together; and

(b) The marital relationship is apparently normal and stable with mutual sharing of control and responsibility according to their respective capacities.

(3) Separate property or income of a wife may be considered as not available to meet the requirements of a husband when:

(a) The wife has definitely stated that she will not contribute toward her husband's requirements out of such separate property or income; and

(b) The husband and wife are:

(i) Not living together; or

(ii) Living together, but under situations such as the following:

(A) She has publicly repudiated responsibility for the debts or support of her husband, or [or]

(B) Statements of the spouses are substantiated by other evidence, such as:

(I) Existence of a pattern of segregation of household costs and responsibilities sustained over some reasonable period of time.

(II) Tax reports or tax withholding exemptions showing that neither is considered as dependent on the other; and supporting the separate ownership of the income

(III) Sworn testimony from others who do not stand to benefit directly one way or the other and in a position to know of the family situation

(IV) Other clear and convincing evidence of circumstances resulting in established property settlements or which have effectively excluded the husband from benefiting from the wife's income.

(4) When it has been established that property or income is the separate property of the wife of an applicant.

(a) Transfer of the property by the wife does not disqualify the husband but she may not be included in his grant if she is ineligible because of the transfer.

(b) The husband shall not be declared ineligible on the basis that the market value of the wife's separate property would disqualify her if she were applying, but she may not be included in his grant. [Regulation 8.553, filed 1/24/64.]

**WAC 388-28-380 Community, separate and jointly owned property—Property jointly owned (not community).** When an applicant has less than full title to property (title is shared with some person other than the spouse and other than the contract vendor, mortgage or lien holder) eligibility shall be determined upon the basis of the applicant's equity in his fractional interest in the value of the property. [Regulation 8.554, filed 1/24/64.]

**WAC 388-28-385 Community, separate and jointly owned property—Property ownership—Verification.** In the absence of definite evidence to the contrary produced by the applicant, legally executed bills of sale, purchasing contracts, official tax records, or documents executed for purposes such as securing loans and which

specify the applicant as owner, or as carrying the obligation attendant upon ownership, shall be presumed to establish the ownership of such resource by the applicant. [Regulation 8.56, filed 1/24/64.]

**WAC 388-28-390 Community, separate and jointly owned property—Social insurances and related entitlements.** (1) "Entitlement" means any form of benefit, compensation, insurance, pension (retirement, military, etc.), bonus, allotment, allowance, etc., payable in cash or its equivalent in which an applicant may have a claim or interest recognized in law.

(2) The local office shall carefully examine the interest an applicant may have in any entitlement and explore all of the facts with him.

(3) The local office shall discuss with the applicant any potential entitlements, direct him to the proper agency through which clearance may be made and, if necessary, assist him in obtaining such benefits.

(4) Men who can receive reduced RSI benefits at age sixty-two and women who can do so at age sixty are ineligible for public assistance. Whether or not such person chooses to obtain this reduced benefit is his own decision, but the amount of the resource which he could claim shall be taken into consideration in computing his financial need. [Order 917, § 388-28-390, filed 3/14/74; Regulation 8.57, filed 2/3/67; Regulation 8.57, filed 12/31/65, 1/24/64.]

**WAC 388-28-392 Community, separate and jointly owned property—Labor and industries compensation—Lien.** (1) The Department is authorized to file a lien upon labor and industries time loss compensation payable to a recipient of public assistance.

(a) Provisions of this section do not apply to persons whose eligibility for labor and industries benefits is based upon an injury or illness occurring prior to July 1, 1972.

(2) By accepting public assistance a recipient is deemed to have subrogated to the department his right to recover net time loss compensation. The amount recoverable by the department shall be up to 80% of assistance or compensation, whichever is less, granted to the recipient for or during the period for which time loss is payable.

(3) A copy of the statement of lien and notice to the department of labor and industries to withhold and deliver time loss compensation to the department shall be mailed to a recipient no later than three days after such statement has been sent to the department of labor and industries.

(4) The department shall advise an applicant or recipient of the provisions of this section when it is known that such individual may be eligible for time loss compensation from labor and industries.

(5) Any person feeling himself aggrieved by the action of the department in impounding his time loss compensation shall have the right to a fair hearing as provided in chapter 388-08 WAC. [Order 842, § 388-28-392, filed 8/9/73.]

**WAC 388-28-400 Effect of resources and income on financial need—Summary of basic policies.** (1) Meaning of resources.

(a) A resource is any property which the applicant possesses and can currently use to supply all or part of his requirements. See definition of "Resource" and "Income" in WAC 388-22-030.

(b) Property shall be considered a resource only when it is actually at hand for current use and/or disposition by the applicant. Real and personal property shall be considered at hand for current use and disposition when it can be utilized to supply requirements by use, by direct transfer to a buyer, by conversion into cash, or by a pledge of such asset.

(c) Resources shall be considered to be at hand for current use and/or disposition whenever they are in the form of real or personal property over which the applicant has title or control. Title exists in the form of record title to real estate and certain personal property, such as an automobile; title to most other personal property exists by mere possession. Title to property raises a presumption of the right and ability of the title holder to use or dispose of such property.

(2) Consideration of resources and resource potentials.

(a) For the purpose of determining current and continued eligibility for public assistance, the ESSO shall evaluate the status of all real or personal property (community, separate or jointly owned) held by or subject to the disposition or control of an applicant and his spouse and members of the assistance unit.

(b) Also, the resource potentials of such persons must be considered.

(3) Exempt resources. Exempt resources do not affect eligibility in terms of their disposition value but may in respect to the use or income producing value.

(4) Nonexempt resources. The possession of all non-exempt resources affects eligibility. Their sale, pledge, lease, rental or use values are used to offset the cost of requirements in determining the existence or degree of financial need. When such values are equal to the cost of requirements the applicant is ineligible. If the cost of requirements exceed the values of nonexempt resources, need exists in the difference.

(5) Clarification of ownership or value.

(a) If there is evidence that the applicant has a resource but there is also some doubt about this or about its value, the applicant is responsible for clarifying the data to the extent of his ability to do so. Without such clarification continuing eligibility cannot be established.

(b) If the applicant does not clarify the facts in question within a reasonable period of time set by the ESSO, but not to exceed forty-five days from date of application, eligibility does not exist for continuing assistance.

(c) If the applicant is handicapped in his ability to clarify his eligibility, the ESSO shall assist him to do so.

(d) If the applicant produces evidence supporting his eligibility but doubt of its reliability or conclusiveness still exists the ESSO shall attempt to obtain conclusive evidence directly.

(6) Assistance while clarifying ownership or value. If an applicant needs assistance during the reasonable

clarification period specified in subsection (5), noncontinuing GA may be granted, if eligibility for such exists in accordance with WAC 388-37-215. However, if an applicant does not proceed to clarify his eligibility for continuing assistance with reasonable diligence in accordance with his ability, he is ineligible for assistance of any type.

(7) An applicant must proceed to make available any resource which will reduce need.

(a) When there is evidence that an applicant has an interest in property but does not have full legal control of it, or that there is property which he could legally obtain by taking affirmative action to do so within his ability, his eligibility for both continuing and noncontinuing assistance is as specified in subsections (5) and (6).

(b) In determining whether an applicant is proceeding with reasonable diligence to make a resource potential available to meet need, the ESSO is governed by the factors involved in individual situations. The applicant is responsible for submitting evidence in the form of statements or letters which would indicate the factors involved and the approximate time that a final decision could be expected. A definite period of time is determined by the ESSO made known to the applicant and recorded.

(8) Conditional eligibility. When an applicant has taken reasonably required action to make a resource potential available but without success, his current eligibility is not affected. However, if there is reason to believe that the resource potential will be available later, his continued eligibility is conditional and subject to review at such later period at which time the appropriate policy herein is utilized.

(9) Assistance computation. A nonexempt resource value is treated like income as stated in WAC 388-28-475 to compute financial need and the amount of the grant for which an applicant may be eligible. [Order 1096, § 388-28-400, filed 2/13/76; Regulation 8.61, filed 1/24/64.]

**WAC 388-28-410 Effect of resources and income on financial need—Exempt and nonexempt resources.** When [it] has been determined that an applicant possesses a resource in accordance with the above considerations, such resources shall be classified as exempt or nonexempt in accordance with WAC 388-28-415 through 388-28-455. [Regulation 8.62, filed 1/24/64.]

**WAC 388-28-415 Effect of resources and income on financial need—Exempt resources.** An applicant may possess and retain the following resources and be eligible for public assistance. While the fact of ownership does not make an applicant ineligible, the use of such properties to produce income (such as rental of a room in the home), or to meet the cost of a requirement (such as wood on the home property which meets the fuel requirement) does effect financial need. [Regulation 8.63, filed 1/24/64.]

**WAC 388-28-420 Effect of resources and income on financial need—Real property—Home.** (1) The applicant's home is an exempt resource subject to the

conditions specified. There is no ceiling value on the home.

(2) A home is defined as real property owned and used by an applicant as a place of residence, together with a reasonably [reasonable] amount of property surrounding and contiguous thereto, including property normally considered and used as a part of a home, such as,

(a) Yard and home garden space;

(b) Road to get to the home;

(c) Right of way to and land holding a water supply;

(d) Out-buildings and land on which they are located serving a normal and useful function of the home, such as garage, woodshed, chicken house, barn, pasture for cow, etc. In this connection, the use of necessary land and buildings to produce self-consumed products as outlined in WAC 388-28-605 is considered as a reasonable part of the home property;

(e) Land and buildings necessary to carry out the functions described in WAC 388-28-430(1)(c) and (1)(d) when such a plan is approved by the area office.

Property in addition to that covered under subsections (2)(a) through (2)(e) is considered under WAC 388-28-455.

(3) The home when used as a place of residence by the applicant or by his dependents is an exempt resource.

(a) "Dependents" as used in this section means spouse of the applicant and/or minor children and disabled sons or daughters.

(b) "Disabled sons or daughters" means one or more unmarried, natural or adopted, minor or adult sons or daughters with a medically-verified disability which significantly handicaps them in performing employment or homemaking activities and who are dependent on the applicant for their livelihood.

(4) When the home is not being used for residential purposes by the applicant or by his dependents, the property shall be considered as a nonexempt resource subject to the exceptions in (a) and (b).

(a) An applicant absent from his home for temporary visits is considered as continuing to reside in his home unless he expresses his intent to abandon the home as a residence.

(b) An applicant absent from his home for more than 90 days is presumed to have abandoned the home for residential purposes, except when such absence is due to hospitalization or other health reasons.

(i) When such absence is over 90 days, and there is cause to believe that the applicant will be unable to return to his home during the remainder of his lifetime because of his health condition, and the home is not occupied by his dependents, the home shall be considered as a nonexempt resource if the following conditions are met.

(A) The individual specifies in writing that it is his intent not to return to the home and use it as his place of residence either for himself, or for his dependents, or

(B) The area office administrator, with the cooperation of the medical consultant, shall contact the president of the local medical society and ask that three doctors, one of which may be the attending doctor, or

review the existing medical findings and history and provide the area office with a statement signed by all three physicians that it is their professional belief and opinion that the individual for health reasons, will either be able or unable to return to his home property. If the conclusion reached by the three physicians is not unanimous, this shall be so indicated.

In the event the evaluation from the three physicians indicates that it is their medical opinion the individual will be able to return to his home during his lifetime, the home property shall continue to be considered as exempt property.

In the event the evaluation from the three physicians indicates unanimously that it is their medical opinion the individual will be unable to return to his home during the remainder of his lifetime, the home, if not occupied by his dependents, shall be considered nonexempt property which can be made available to meet need.

The area office administrator shall advise the president of the local medical society, as well as the physicians selected by the president, that the department will pay each physician participating in the review an amount not to exceed \$10 per case. [Order 373, § 388-28-420, filed 8/1/69; Regulation 8.631, filed 1/24/64.]

**WAC 388-28-430 Effect of resources and income on financial need—Personal property exemptions—**

**Ceiling values.** (1) Personal property without ceiling value. The following personal property is an exempt resource. There is no ceiling value on such property.

(a) Used and useful household furnishings and personal clothing. Household furnishings and personal clothing which are in storage shall be presumed to be not used and useful, but all other household furnishings and personal clothing shall be presumed to be used and useful and both presumptions stand in the absence of evidence to the contrary.

(b) Personal property of "great sentimental value" may be exempted when the applicant establishes the circumstances and conditions which give it this value. When the intrinsic value is relatively high (stamp or coin collections, etc.) there may be need to review it carefully.

(c) Livestock or any other similar property owned by a child for the sole purpose of participating in an organized group or school activity, such as 4-H Club or FFA, shall be exempt, providing any net profit derived from the use of such property is reserved for future educational purposes.

(d) Other personal property, such as tools, farm machinery, livestock, business equipment, which is used by the applicant to reduce his need for assistance or to rehabilitate himself, and which produces an appreciable return in cash or kind, but which is not a fully competitive enterprise and does not require hiring help can be declared an exempt resource by the ESSO on the basis of an agreed plan.

(e) One cemetery plot for each member of an assistance household is exempt personal property. Any additional plots are nonexempt.

(2) Exempt personal property with ceiling value. Property holdings in the form of cash and marketable

securities, life insurance, real estate or chattel mortgages, sales contracts and used and useful automobiles are exempt resources to the extent that the values of such items are within the maxima or "ceiling" values specified in the following paragraph:

(a) Ceiling values on combinations of individual items. The total value of cash, marketable securities, cash discount value of real estate or chattel mortgages and sales contracts, cash surrender value of life insurance, and equity in cars shall not exceed \$750 for a single person, or \$1,450 for a family of two. This maximum shall be increased by \$50 for each additional member in the family.

Family Size	Total Cash, Marketable Securities, Cash Surrender Value of Life Insurance, Cars	Cash and Marketable Securities
1	\$ 750	\$ 200
2	1450	400
3	1500	425
4	1550	450
5	1600	475
6	1650	500
7	1700	525
8	1750	550
9	1800	575
10	1850	600

(i) Funds represented by values within the ceiling values are not used to determine financial need and to compute grants.

(ii) Funds represented by values in excess of the maxima or ceilings are nonexempt; that is, they are used to determine financial need and to compute grants.

(b) Cash and marketable securities—ceiling. Within the above limitation the value of cash and marketable securities shall not exceed \$200 for a single person or \$400 for a family of two. This maximum shall be increased by \$25 for each additional member of the family over two.

(i) Cash. All cash savings held by the applicant or held jointly with any other person shall be considered. Any funds on deposit, in hand or in any place from which cash may be drawn by the applicant is a cash fund. A cash fund includes a bank account, savings, funds held in trust for future use (when applicant can make withdrawals), savings bonds, advance insurance premium payments, interest, etc.

(A) A joint account shall be considered the property of the applicant since the entire amount is at his disposal.

(B) An applicant may give "power of attorney" to another person to make withdrawals from a savings account for the requirements of the applicant. Such arrangement shall not be construed as constituting the transfer of a resource or deemed a joint account.

(c) Real estate or chattel mortgages and sales contracts

(i) Real estate or chattel mortgages or sales contracts held by the applicant will be considered exempt resources in combination with the value of other exempt personal property, within the limitation allowed in subsection (2).

(ii) The cash discount value of a mortgage or contract represents the value of the resource.

(iii) Any payments on mortgages or contracts received by an applicant or recipient shall be considered income as specified in WAC 388-28-580.

(d) Life insurance.

(i) Cash surrender ceiling value. Life insurance may have a cash surrender value considered as an exempt resource in combination with the value of other exempt personal property within the limitation allowed in subsection (2).

(ii) Other considerations.

(A) Net value of unassignable policy. When the equity of another person in an unassignable policy held by an applicant can be established, the amount of such equity may be deducted in determining the applicant's holdings in insurance, provided that person holding the equity is named as beneficiary of the proceeds to the extent of such equity and without power or revocation by the insured.

(B) Assignment of policy. An insurance policy legally assigned belongs to the assignee and may not be regarded as the property of the insured. However, the assignment of a policy within two years prior to application or by a recipient must be evaluated as the transfer of a resource.

(c) Funeral insurance and prepaid funeral contracts are governed by the same rules as life insurance policies. The contract may include (but is not limited to) a method of prepaying funeral and burial expenses. In addition, the contract usually provides cash surrender and loan values, extended term insurance (nonforfeiture provisions), and assignability. The cash surrender or loan value of such contract shall be treated as life insurance.

(I) An assigned funeral contract shall be treated according to (ii)(B) above. However, the designation of a funeral director as beneficiary under either the "funeral benefits" or the "additional benefit agreement" sections of the policy, or both, is not an assignment of the contract.

(e) Used and useful automobiles.

(i) Used and useful automobiles are an exempt resource in combination with the value of other exempt personal property within the limitation allowed in subsection (2).

(ii) Equity value shall be used in determining the resource in automobiles.

(iii) (A) In determining the resource value of automobiles, the National Automobile Dealers Association Official Used Car Guide shall be used. For automobiles listed in this guide "average loan" value in the current edition shall be presumed to be the resource value.

(B) In determining the resource value of recreational vehicles the Kelley bluebook R.V. guide shall be used. For vehicles listed in this guide "wholesale" value in the current edition shall be presumed to be the resource value.

(C) For vehicles not listed in these guides the method of determining the resource value shall be documented in the case record.

(D) The values listed in these guides can be overcome by positive evidence to the contrary. Such evidence shall be documented in the case record. [Order 1241, § 388-28-430, filed 9/23/77; Order 1106, § 388-28-430, filed 3/11/76; Order 891, § 388-28-430, filed 12/27/73; Order 373, § 388-28-430, filed 8/1/69; Order 295, § 388-28-430, filed 8/5/68; Regulation 8.632, filed 8/10/67; Regulation 8.632, filed 7/13/65; filed 12/21/64, effective 2/1/65; filed 6/17/64, effective 8/1/64; 1/24/64.]

**WAC 388-28-440 Accumulation and depletion of allowable cash resource reserves.** (1) Recipients may spend their cash reserves and rebuild them with succeeding public assistance grants or with funds from other exempt sources. They may place grants in accounts along with cash reserves and then spend out of those accounts during the month.

(2) Cash on hand may exceed the limits specified in WAC 388-28-430(2)(a) to the extent unexpended money from the public assistance grant is on hand within thirty days after its receipt.

(3) Allowable cash reserves may be accumulated from nonrecurrent cash lump sum sources, including the following:

- (a) Income tax refunds.
- (b) Inheritances.
- (c) Insurance benefits.
- (d) Gifts.
- (e) Prizes and awards.
- (f) Repayment of debts owed the recipient.
- (g) Proceeds from the sale of exempt property.
- (h) Social Security death benefits.

(i) Indian per capita payments generated by tribally held land or business.

(4) If a lump sum, when added to existing reserves, causes the resources to exceed allowable limits, the excess is newly acquired income to be treated in accordance with WAC 388-30-100. Make the computation as follows:

(a) Determine the amount of the lump sum and the date it is received.

(b) Determine the amount of other cash and marketable securities on hand as of the date the lump sum is received.

(c) Subtract from the amount in (b) any portion of that amount which is unexpended money from a grant received within thirty days prior to the date the lump sum is received. The remainder is the amount of the cash reserve as of the date the lump sum is received.

(d) Add the amount of the cash reserve to the amount of the lump sum. If the total exceeds the allowable limits on cash and marketable securities, the excess is newly acquired income available to meet need.

(5) Recipients may not use the following types of one-time payments to accumulate resource reserves:

(a) Earnings which are accrued over a period of time and received in one payment.

(b) Payments which represent accumulated periodic benefits. Examples are Social Security retirement and disability benefits, Railroad Retirement benefits, Unemployment Insurance benefits, and veterans' benefits.

(6) If a lump sum is placed in trust for a recipient and is not under his or her control, the following rules apply:

(a) Funds kept in trust do not affect public assistance need.

(b) The trustee may release to the recipient an amount up to the allowable cash reserves for the assistance unit less any amount of existing reserves as of the date the lump sum was received. Such disbursement, if made within thirty days of the date the lump sum was received, is used to accumulate allowable reserves and does not affect public assistance need. This may be done once for each lump sum placed in trust. [Order 1224, § 388-28-440, filed 7/19/77.]

**WAC 388-28-450 Nonexempt resources—Effect on financial need.** Any resource, except those listed in WAC 388-28-420 and 388-28-430 as exempt, is a nonexempt resource.

The possession of a nonexempt resource by an applicant affects his financial need to the extent that the value of the resource decreases his need for public assistance. The value of such resource is deducted from the cost of the applicant's requirements for one month. See WAC 388-28-481 for effect of nonexempt resources on continuing need. If the value of nonexempt resources exceeds one month's requirements the applicant is ineligible.

The value assigned to such resources shall be the fair market value unless quick or forced sale value is otherwise specifically designated as the value. [Order 1241, § 388-28-450, filed 9/23/77; Regulation 8.64, filed 1/24/64.]

**WAC 388-28-455 Nonexempt resources—Real property—Nonexempt.** (1) Any real property other than the home (including life estate not occupied as a home) shall be considered a nonexempt resource in the amount of: (a) the quick sale value if sale is possible, or (b) the income from rental or lease if sale is not possible.

(2) However, exception to the policy in (1) above may be made under the following conditions:

(a) Although the property has a sale value, its rental or lease is more practical. Lack of separate entry to the property and other such considerations may force the sale of the property only at unreasonable sacrifice in view of its higher value if held as a part of the home property, or in view of the income which could be realized from rent or lease. In such cases property rented or leased within a reasonable period of time and continued as such may be retained as a part of the home. If not rented or leased it is a nonexempt resource. The exception is made on an individual case basis by the CO administrator.

(b) If an applicant has used reasonable diligence in seeking a purchaser, renter or leasee of his nonexempt real property or life estate but is unable to sell, rent or lease the property at any price, no resource value exists pending any change which might give value to the item.

(c) WAC 388-28-400 should be reviewed in connection with these situations. [Regulation 8.641, filed 1/24/64.]

**WAC 388-28-457 Transfer of property.** WAC 388-28-457 through 388-28-465 deals with the transfer of property prior to or at the time of application. If previously owned property was transferred for less than adequate consideration, the value of such transferred resource affects the current and future eligibility of the applicant. [Order 1241, § 388-28-457, filed 9/23/77.]

**WAC 388-28-458 Definitions.** (1) "Adequate consideration" shall mean that the reasonable value of the goods or services received in exchange for the transferred property approximates the reasonable value of the property transferred.

(2) "Need under normal conditions of living" shall mean the Washington state gross median income adjusted for family size, as promulgated by the Secretary of HEW, under the authority granted by Title XX of the Social Security Act, minus other income, during a period of time when not receiving public assistance.

(3) "Public assistance need" means the monthly amount of the department's standards for requirements minus all available income.

(4) "Reasonable value" refers to a reasonable value of the property transferred and the reasonable value of the goods or services received in exchange for the transferred property. The reasonable value of real or personal property transferred and/or received in return is not less than quick-sale value as of the date of transfer.

When property is in the form of cash no question exists as to the value. Items in kind are always evaluated to determine their reasonable value.

(5) "Transfer" shall mean any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by

(a) An intentional act or transfer, or

(b) Failure to act to preserve title to the resource. [Order 1241, § 388-28-458, filed 9/23/77.]

**WAC 388-28-459 Transfer of property with intent to qualify for public assistance.** (1) In the absence of an admission that a transfer was made with intent to qualify for public assistance, an applicant shall be presumed to have transferred property to qualify for public assistance only when

(a) He has transferred nonexempt property for an inadequate consideration, and

(b) Such transfer has reduced the applicant's nonexempt property holdings to the extent that he has created a probable need for public assistance in the foreseeable future.

(2) The presumption can be removed by a positive showing by the applicant that one or more of the conditions in WAC 388-28-461 and 388-28-462 existed and were factors in his transfer.



(3) If the presumption is not removed, the rules in WAC 388-28-460 pertain and shall be followed. [Order 1241, § 388-28-459, filed 9/23/77.]

**WAC 388-28-460 Transfer within two years prior to application.** (1) An applicant who transfers any real or personal property within two years immediately prior to the date of application (or during the application period) without having received adequate consideration for such property shall be deemed to have a resource available to meet his needs under normal conditions of living. Personal property as used in this rule means any form of property, including money, which is not real property.

(2) The amount considered available to meet need shall be the difference between the reasonable value of the consideration received for the transferred property and the reasonable value of the property transferred. In determining this amount the rules in WAC 388-28-461 and 388-28-462 shall be considered.

(3) If the transfer is taken into account before assistance is authorized the applicant is ineligible from the date of transfer for a period of time determined by dividing the amount considered available to meet need, computed according to subsection (2), by need under normal conditions of living as defined in WAC 388-28-458.

(4) If the transfer is taken into account after assistance is authorized

(a) The amount of need under normal conditions of living is determined for the period from date of transfer to date of authorization.

(b) If the amount determined according to subsection (4)(a) equals or exceeds the amount considered available to meet need, the transfer does not affect past, current or future eligibility.

(c) If the amount determined according to subsection (4)(a) is less than the amount considered available to meet need, the individual is ineligible for assistance granted, up to the value of this difference, for the period from grant authorization to the date of grant adjustment to correct the mistake. The amount for which he is ineligible is an overpayment subject to the definition in WAC 388-44-010.

(d) If the sum of the amount of need prior to date of authorization ((4)(a)) and the overpayment ((4) (c)), is less than the amount considered available to meet need, the difference is deemed available to meet future need from the date of grant adjustment to correct the mistake. The individual is ineligible during a future period determined by dividing the difference by need under normal conditions of living. See WAC 388-28-463 for adjustments during this period of ineligibility.

(5) The period of ineligibility shall not exceed two (2) years. [Order 1241, § 388-28-460, filed 9/23/77.]

**WAC 388-28-461 Transfer of property—Adequate consideration.** In determining whether the value of the consideration which the applicant received from the transfer of property is adequate or less than adequate in respect to WAC 388-28-459 and 388-28-460 the following factors shall be taken into account:

(1) Circumstances necessitating the transaction. If the applicant's circumstances were such that a forced sale was reasonably indicated, with little time for seeking possible purchasers, the amount realized may be considered adequate although less than the amount which could have been realized by a more leisurely sale.

(2) The business experience or acumen of the seller. One with little experience in business will probably not make as advantageous a deal as one who is experienced and knows how to get the best possible trade.

(3) The market demand for the type of resource transferred. Certain property, such as some securities, automobile, etc., can be readily sold; whereas other property can only be sold on forced sale to speculators, who presumably would pay very little. This might apply to real estate in a locality where there is little demand for property.

(4) Market value of the item transferred may be used as a guide to the reasonableness of the consideration which should have been received. However, less than market value shall not be considered unreasonable if, in view of all existing circumstances and factors, the individual's plan in regard to the transfer had any reasonable basis as illustrated below:

(a) A consideration shall not be deemed reasonable in terms of what should have been received when the consideration received only reduced or diminished the applicant's existent rights and there were no conditioning factors present. For example, an applicant who was the holder of a \$1,000 note, but who settled the note by accepting \$500 would ordinarily be considered to have received less than reasonable consideration. It might be reasonable consideration, however, if there were disputes about the note, etc., and a reasonable compromise seemed desirable.

(b) A transfer of property in settlement of a legally enforceable debt approximately equal to the current fair market value of the property transferred represents reasonable consideration. Likewise, settlement of an unresolved claim (such as a claim for damages) by the transfer of property of approximately equal value is regarded as reasonable consideration in the absence of evidence indicating fraud or collusion. (The advice of the applicant's attorney suggesting settlement would, of course, be substantiating evidence.) The existence of a debt must be established by one or more of the following types of evidence:

(i) A legally recorded instrument evidencing the existence of the debt and executed at or about the time the debt was allegedly incurred

(ii) Other documentary evidence—for example, cancelled checks, receipts, notes, mortgages, or written agreements executed by the principals at or about the time the debt was allegedly incurred

(iii) The sworn affidavits or testimony of at least two disinterested persons not parties to the transaction or directly or indirectly benefiting therefrom, who were in a position to have first-hand knowledge of the situation and arrangements between the principals at the time the debt was allegedly incurred and whose statement corroborates the sworn statement or testimony of the principals.

(iv) Such other evidence as would be accepted by a court of law to establish a debt, such as record of account, etc.

(5) Debts incurred from the services of a minor child or for loans from a minor child are not recognized as legal obligations. [Order 1241, § 388-28-461, filed 9/23/77.]

**WAC 388-28-462 Transfer of property—Exceptions.** The act or omission to act whereby an interest in property is set over to another under the following circumstances is not a transfer:

(1) The applicant was the victim of fraud, misrepresentation or coercion and the transfer was based upon such fraud, misrepresentation or coercion; providing that the applicant has initiated and taken any and all possible steps to recover such property or the equivalent thereof in damages. Such facts are established by competent legal advice from the applicant's attorney or, if he has none, the prosecuting attorney. In the event that action has been taken for restitution or damages the applicant may be eligible until the action is concluded providing he proceeds with due diligence.

(2) The property was transferred to a spouse pursuant to a divorce or legal separation settlement approved by or ordered by a court of competent jurisdiction.

(3) The applicant held title only as a trustee for the use and benefit of another person with no beneficial interest himself.

(4) The transfer was to clear title to property in which the applicant had no real beneficial enforceable interest.

(5) The act was the execution of a mortgage of exempt property to secure antecedent debts, the only consideration for which was the forbearance of suit by the mortgagee. "Antecedent debts" means debts which occurred prior to and apart from the transaction giving rise to the execution of the note and mortgage. "Forbearance of suit" refers to the creditor's promise not to enforce his right to payment of the debt by legal proceedings in court. Situations coming under this provision are cleared in writing with the assistant attorney general in the state office. [Order 1241, § 388-28-462, filed 9/23/77.]

**WAC 388-28-463 Transfer of property—Adjudgment in period of ineligibility.** (1) The past and future period of ineligibility as determined in WAC 388-28-459 and 388-28-460 may be reduced if during such time of ineligibility the applicant has demonstrable, unusual nonrecurrent expenses, such as extensive hospitalization, surgery, major disaster, etc., or a major unforeseen change in circumstances.

(2) An applicant who secures a return of the property transferred, or the equivalent value, may be eligible if otherwise qualified. In addition, if he secures a return or a portion of the resource or the equivalent value, the period of ineligibility may be accordingly reduced. [Order 1241, § 388-28-463, filed 9/23/77.]

**WAC 388-28-464 Transfer of property—Assistance during period of ineligibility.** An applicant who transferred property to qualify for assistance or for an

inadequate consideration and who has been determined not to be in need for a future period of time, may be granted public assistance only if undue hardship exists and an exception to policy is approved according to chapter 388-20 WAC. Assistance paid as a result of an exception to policy under this rule shall not be considered an overpayment. [Order 1241, § 388-28-464, filed 9/23/77.]

**WAC 388-28-465 Transfer of property—Life estate, release, assignment—Adequate consideration.** (1) The release of a life estate in real property is a transfer of a right in such property and, if done without reasonable consideration, may be regarded as a transfer of property. See WAC 388-28-459 and 388-28-460 to determine how the transferred amount, computed according to subsections (2) through (7) affects eligibility.

(2) When an applicant releases or assigns a life estate, the value of the right transferred shall be determined by using the State Insurance Commissioner's Table for determining valuation of present worth of life and term estates or annuities.

(3) Deleted.

(4) When an individual had complete title to property, transfer with retention or reacquisition of life estate is never adequate consideration, since the individual accepts back less title and less right than he had before.

(5) Life estate in property previously owned may be adequate and reasonable consideration if the individual receives other consideration, such as a release from encumbrances against the property, or the settlement of claims or interests in the property, or the promise in writing of other valuable considerations such as money or services.

(6) Whether life estate was adequate and reasonable consideration requires a determination of

(a) The applicant's equity in the property, and

(b) A determination of his equity in the life estate together with the additional considerations.

(7) The known actual value of a transferred life estate is used if it is greater than the value established according to the insurance commissioner's table. [Order 1241, § 388-28-465, filed 9/23/77.]

**WAC 388-28-470 Transfer of exempt property by recipient.** (1) The rules in WAC 388-28-470 through 388-28-473 apply to the transfer, in whole or part, by a recipient of various types of property which he owned when he applied for public assistance and which has been declared exempt property.

(2) Exempt property which a recipient may retain and be eligible for public assistance must continue to be retained to be exempt except as provided in WAC 388-28-471 and 388-28-472.

(3) "Transfer" is used as defined in WAC 388-28-458(5) and 388-28-462. [Order 1241, § 388-28-470, filed 9/23/77.]

**WAC 388-28-471 Exempt property transferable without consent.** (1) Exempt personal property may be transferred without the consent of the local office.

(2) The transfer of exempt personal property will not affect financial need if the following conditions are met.

(a) Proceeds from the transfer in excess of departmental ceiling limits must be expended within sixty days from the date received.

(i) A reasonable delay beyond sixty days may be allowed when the recipient is prevented from carrying out a reinvestment plan because of illness or complications involving the mechanics of the transaction.

(b) Property holdings must be within the department's ceiling limits when the transactions are completed.

(3) The cash reserve may be used for any purpose. [Order 1241, § 388-28-471, filed 9/23/77.]

**WAC 388-28-472 Exempt property transferable with consent.** (1) With the written approval of the local office a recipient may transfer any exempt real property or interest in such property, without penalty, to

(a) Buy a home or life estate in a home,

(b) Make necessary repairs or improvements on his home, and/or

(c) Purchase any exempt personal property.

(2) The local office shall approve such transactions if the following conditions are met.

(a) Adequate consideration as specified in WAC 388-28-461 must be received for the property transferred and for the proceeds reinvested.

(b) Reinvestment must be initiated within sixty days.

(i) A reasonable delay beyond sixty days may be allowed when the recipient is temporarily prevented from carrying out a reinvestment plan because of illness or complications involving the mechanics of the transaction.

(c) Property holdings must be within the department's ceiling limits when the transactions are completed. [Order 1241, § 388-28-472, filed 9/23/77.]

**WAC 388-28-473 Property transferred contrary to WAC 388-28-471 and 388-28-472.** (1) If a recipient transfers previously exempt property contrary to WAC 388-28-471 and 388-28-472 or if the proceeds from the transfer are used for purposes other than described in those rules, the value of the property transferred is considered available to meet need and the transfer affects eligibility according to subsections (2) (3) (4) and (5).

(2) It is presumed that the recipient had funds available to meet need from the first of the month following the date of transfer. The amount considered available to meet need shall be either his equity in the quick sale value of the resource or the actual amount received, whichever is the greater. If the resource was a mortgage or conditional sales contract, the value of the equity transferred shall be the amount considered available to meet need.

(3) If the grant is adjusted before the first of the month following transfer

(a) Assistance is continued when the amount considered available from subsection (2) and other income available during the month amounts to less than one month's requirements;

(b) Assistance is suspended when the amount considered available from subsection (2) and other income

available in the next two months is less than two months' requirements;

(c) Assistance is terminated when the amount considered available from subsection (2) and other income available in the next two months is more than two months' requirements. The future period of ineligibility is determined using current requirements and the method described in WAC 388-28-460.

(4) If the grant was not adjusted the first of the month following transfer, partial or total ineligibility exists and the amount of overpayment is determined.

(a) The grant is continued if the amount considered available from subsection (2) is completely liquidated as overpayment.

(b) The grant is suspended or terminated when the total amount considered available from subsection (2) is not liquidated by the overpayment. The amount considered available after figuring the overpayment is used to determine future period of ineligibility using the rules in subsection (3)(b) or (3)(c) as appropriate. The first of the month the assistance payment can be adjusted is used to establish the beginning of the future period.

(5) The rules in WAC 388-28-463 and 388-28-464 apply to transfers under this section. [Order 1241, § 388-28-473, filed 9/23/77.]

**WAC 388-28-474 Replacement of exempt property.** A recipient may, in the event of an insurance settlement as a result of fire loss, acquire items of like value as those destroyed in the fire. Such action must follow the guidelines established in WAC 388-30-075(2). [Order 1241, § 388-28-474, filed 9/23/77.]

**WAC 388-28-475 Use of income and income potentials.** (1) Meaning of income (See definition in WAC 388-20-030). Income includes all types of real or personal property, support from parent, stepparent, assumptive spouse, stocks and bonds, wages, interest in an estate, income from farming, all benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, U.C., etc. Its value is used to compute financial need in accordance with the policies herein.

(2) Ownership and use of income and income potentials. The policies in WAC 388-28-300 through 388-28-395 regarding ownership and use of resources also govern the ownership and use of income and income potentials.

(3) Resources and income. WAC 388-28-400 through WAC 388-28-455 contain policies and procedures for considering and using nonexempt resource values to determine financial need. WAC 388-28-475 through 388-28-600 covers policies and procedures used in computing income to determine financial need. The total nonexempt resource values and nonexempt net income values are compared with requirements' costs to determine financial need and, if it exists, the amount of the grant for which the applicant is eligible. [Order 1241, § 388-28-475, filed 9/23/77; Regulation 8.80, filed 1/24/64.]

**WAC 388-28-480 Use of income and income potentials—Types of income—Effect on need.** (1) The local office shall determine the income available to the applicant. See WAC 388-22-030(34).

(2) An applicant whose recurrent income for the month exceeds the monthly standards for basic requirements is not eligible to receive assistance whether the income is received weekly, biweekly or monthly, except as specified in WAC 388-24-250 through 388-24-265. Weekly income is multiplied by 4.3 to determine monthly total.

(3) Treatment of income

(a) Earned and unearned nonexempt net recurrent income and appreciable nonrecurring income which is received by the applicant between the first day of the month and the date of initial grant authorization shall be taken into account for the month by prorating the income at public assistance standards from the first of the month until the date of grant authorization. The remainder, if any, shall be deducted from the assistance grant for the month.

(b) Income received by the applicant during the month but after the date of initial grant authorization shall be considered available to meet need on the first of the following month providing such income is reported to the local office by the 21st day of the month.

(c) Income received during the month and reported after the 21st day of the month shall be taken into account in the grant computation for the second month following the month of receipt.

(d) Unearned nonexempt recurrent income received in regular monthly amounts shall be deducted from requirements in the month of receipt beginning the month of initial authorization.

(e) Income not reported until the month following its acquisition and after the 21st day of the month in which it is reported shall be treated as an overpayment.

(4) Deleted

(5) If the applicant has income which is irregular and so small as to be considered by the local office as not appreciable and if the probability exists that such future income will not be appreciable, the amount shall not be taken into consideration in assistance planning subject to later review should the situation change.

(6) Deleted

(7) A small loan if not secured by transfer of exempt property or any interest in such property shall not be defined as income or resource and shall not affect financial need.

(8) With regard to other loans made to applicants or recipients, where the conditions of the loan are such that the principal is not available for current maintenance, and is held and used in accordance with such conditions, it does not represent income or resource to be taken into account against current living costs as computed for purposes of determining the public assistance payment. When the loan constitutes a debt and the property purchased with the proceeds cannot be converted for current maintenance, it does not represent a resource to be included in determining property reserves. Typical of such loans would be those which are under conditions specified by the creditors as to purchases that may be made,

purposes to be fulfilled, or other controls which preclude the recipient from using the funds to meet his current living costs. Loans made by the farmers home administration, U.S. department of agriculture, under Title III of the Economic Opportunity Act come within the above classification.

(a) This rule does not change or modify the rules on transfer of exempt property items in WAC 388-28-470 through 388-28-473.

(b) All net income derived from the use of such a loan is considered available to meet financial need except the amount specified in the loan as a condition for repayment of the loan.

(c) The cost of the repayment of the principal and interest on the loan shall not be included in the computation of the applicant's or recipient's requirements.

(9) A gift in-kind, as named below, supplied on condition that it be used only in a manner or for a purpose specified in writing by the donor shall not be considered as a resource or as income which is available to meet need.

(a) Real or personal property, excluding cash and marketable securities, which is exempted for an applicant and which is within the ceiling values specified in WAC 388-28-430(2). Example: A home or a new furnace.

(b) Any item in the department's standards for additional requirements which is not a requirement for the recipient of such a gift. Example: Telephone service.

(c) Needed goods or services not currently included as additional requirements in the department's standards, for example, repair of house or of household equipment.

(10) WAC 388-28-482 and 388-28-484 cover newly-acquired income received by a recipient. [Order 1241, § 388-28-480, filed 9/23/77; Order 1224, § 388-28-480, filed 7/19/77; Order 1195, § 388-28-480, filed 3/3/77; Order 1058, § 388-28-480, filed 10/1/75; Order 1028, § 388-28-480, filed 5/29/75; Order 891, § 388-28-480, filed 12/27/73; Regulation 8.82, filed 12/28/66, effective 1/27/67; Regulation 8.82, filed 3/31/66, 12/31/65, 7/13/65, 1/24/64.]

**WAC 388-28-481 Nonexempt resources and income known at time of application.** (1) Net recurrent or non-recurrent nonexempt income and nonexempt resource values in cash or kind known to the LO at the time of application shall be taken into account in computing need as specified in WAC 388-28-400 through 388-28-650. WAC 388-28-481 through 388-28-484 shall be applicable when determining the continuing need of the recipient. If a recipient retains a nonexempt resource which has been used to compute his need at the time of application, the policy in WAC 388-28-484(8) shall be applied to compute his continued need. [Order 1241, § 388-28-481, filed 9/23/77.]

**WAC 388-28-482 Effect of newly acquired income and property on continuing need.** "Newly acquired income" means any previously unreported or undiscovered income which has come into the possession or control, in whole or part, of a recipient of public assistance, or of a recipient in suspended grant status.

(1) Whenever a recipient shall come into the possession or control of any income, except as modified in subsection (3), (4) and (5), such income shall be deducted from the cost of total requirements beginning with the effective date specified in WAC 388-28-484. The amount deducted shall equal the following:

(a) The net amount of the income if in cash or its equivalent.

(b) At least his equity in the quick sale value of property other than cash.

(2) When the property is only potentially available for use in meeting the recipient's requirements, WAC 388-28-400(7) applies.

(3) Exceptions. A recipient who comes into the possession and control of property listed in this subsection may retain such property without having the fact of possession or its sale value affect his eligibility or need.

(a) A home used as a residence—see WAC 388-28-420.

(b) Useful and needed clothing, household equipment, food, fuel, and other items included in the requirement standards.

(c) Articles of sentimental value, tools, and 4-H Club or similar project earnings saved for future education costs as provided by WAC 388-24-430(1).

(d) An automobile within the ceiling values in WAC 388-28-430(2).

(4) Recipient with income. The rule in subsection (1) is modified for recipient of AFDC or continuing general assistance with income as follows:

(a) Earned income retained by a child according to WAC 388-28-535(3) shall not be considered as the personal property of the family and shall not be subject to the ceilings in WAC 388-28-430(2).

(b) Income from the Economic Opportunity Act, Title I of the Elementary and Secondary Education Act, and from WIN, MDTA and CETA is treated according to WAC 388-28-515, and 388-28-570 through 388-28-578.

(c) The possession of any amount of funds from sources listed in items (a) and (b) in a cash reserve or savings account does not affect the eligibility of a recipient. However, if such exempted income is converted into other types of property, WAC 388-28-410 through 388-28-455 apply.

(d) Income from interest on exempt savings, dividends from exempt stocks, increase in life insurance cash surrender value, livestock births, etc., affect eligibility only to the extent that the amount causes the total value of the resource possessed to exceed the ceiling values of the resource. The excess is used to determine financial need and is taken into account when the periodic review of eligibility is made.

(e) Payment for funeral expenses for recipient — When a public assistance recipient dies, his (her) surviving spouse or children or parent of a minor child receiving public assistance, may use any of their exempt or nonexempt resources or income, except the home property, to add to available funeral and burial resources in order to pay for the funeral expenses of the deceased

person without affecting their eligibility for public assistance: *Provided, however,* That if the total funeral expenses for the deceased recipient exceeds the department's maximum cost or the amount provided by the recipient toward the total cost of the funeral expense, whichever is the lesser, shall be considered available to meet the public assistance need of the surviving recipient in accordance with this section.

(5) Use of grant and cash reserve in relation to income.

(a) No question about eligibility is raised if public assistance grants are used to add to the cash reserve up to the legal personal property limitations — see WAC 388-28-430(2). The cash reserve may exceed the maximum only to the extent unexpended money from the grant is on hand within thirty days after its receipt, and by exempted amounts as specified in this section.

(b) A recipient always has the right to make a current expenditure out of a cash reserve and replace it from a succeeding grant, just as he might place his whole grant in a bank account, along with his cash reserve, at the beginning of the month and then spend out of the account during the month.

(c) With respect to income other than savings from grant, see WAC 388-28-484(8). [Order 1241, § 388-28-482, filed 9/23/77.]

**WAC 388-28-484 Treatment of newly acquired nonexempt income and resources.** (1)(a) Except as specified in WAC 388-28-482(3) newly acquired income reported by the 21st day of the month affects financial need as of the first of the month following the date of its acquisition.

(b) Income received during the month but not reported by the 21st day of the month will be taken into account in determining need for the second month following the month of receipt unless such income exceeds the standard for requirements. See WAC 388-33-135(2).

(2) When the value of the income is taken into account in the assistance payment as specified in subsection (1), the following rules apply:

(a) If the income value plus any other income amounts to less than the cost of one month's requirements and is recurrent or nonrecurrent, assistance is continued in the amount of the difference.

(b) If the nonrecurrent income equals or exceeds one month's requirements, but is less than two months' requirements minus other income, the recipient is ineligible for a grant from the effective date specified in subsection (1) and his grant is suspended. The suspension period is determined exactly, that is, up to the date of the absorption of the income.

(c) If the income is recurrent and equal to or in excess of one month's current requirements minus other income the recipient is ineligible from the effective date specified in subsection (1) and the grant is terminated, except for person in institutions other than nursing homes as provided in WAC 388-34-160.

(d) If the income is recurrent or nonrecurrent and its value is in excess of two months' requirements minus

other income, the recipient is ineligible from the effective date specified in subsection (1) and the grant is terminated. Ineligibility shall continue for two months. The period of ineligibility, however, may be reduced if the applicant has verifiable expenses such as medical care, unforeseen disaster or other changes in circumstances which make it impossible for him to live on his resource for the two-month period of ineligibility. The eligibility of a former recipient who reappplies shall be determined on the same basis as a new applicant.

(3) If the value of the income is not taken into account in assistance payments as specified in subsection (1) and an overpayment occurred.

(a) Ineligibility exists for any period from the effective date in subsection (1) during which the value of the total income exceeds the costs of requirements and to the extent of such excess.

(b) The amount considered available to meet future need from the date of adjustment of the grant is the value of the income minus the amount already paid in excess of need. This amount is applied to meet future need in accordance with subsection (2) except that the effective date for the application of these rules is the date of grant adjustment.

(4) If a recipient has been determined to be ineligible for a current or future period of time, and his grant will be suspended or terminated for such period of time, due to either newly acquired income, or transfer of property, and is in need during such period of ineligibility, assistance may be granted within the limits of the rule in WAC 388-28-464.

(5) A person acquiring income during suspended status shall be treated as a recipient in terms of eligibility, not as an applicant.

(6) Rules and procedure in chapter 388-44 WAC are followed in respect to overpayment.

(7) Deleted

(8) Nonexempt newly acquired income which has been taken into account in computing financial need according to subsection (2) if retained by a recipient does not affect his eligibility unless the amount retained at the time of the next periodic review exceeds the exempt property holdings permitted for an applicant. In this event the rule on nonexempt resources or income pertaining to an applicant are applied. [Order 1241, § 388-28-484, filed 9/23/77.]

**WAC 388-28-485 Use of income and income potentials—Parental income and support.** (1) Support payments made by or in behalf of an absent parent are income to the child(ren) and are to be treated in accordance with WAC 388-14-210.

(2) When the custodial parent is not included in the assistance unit because of noncompliance with WAC 388-24-108 and WAC 388-24-109:

(a) The income of such parents is allocated according to WAC 388-28-560(2).

(b) Support payments paid directly to the parent and not forwarded to the office of support enforcement are income to the child(ren) and are to be taken into account in determining the need of the assistance unit. [Order 1054, § 388-28-485, filed 9/25/75.]

**WAC 388-28-500 Use of income and income potentials—Computing and allocating income.** (1) Living arrangements, family relationships and categories of assistance also affect the use of income in computing financial need as provided by the rules in this section.

(2) Except as provided in this subsection the nonexempt net income of a person in his own home shall be attributed to the assistance unit of which he is a member.

(a) The total nonexempt net community income of a family having two or more eligible assistance units shall be divided equally between the assistance units unless some other division is preferred. An unequal division of the family income is not permitted if it increases the total amount of assistance (excluding medical care) to which the family would be entitled.

(b) Applicant with a nonapplying independent spouse.

(i) If all income is from community property or from community earnings other than wages, not less than one-half the total income shall be considered available to an AFDC applicant living with a nonapplying spouse.

(ii) Net income from wages or from the separate property of the nonapplying spouse shall be considered available to the applicant only to the extent it exceeds the amount of the nonapplying spouse's requirements computed according to department standards.

(iii) Wages or income from separate property of the applicant shall be considered as provided in WAC 388-28-365 and 388-28-370.

(iv) When income includes both community income and income from the separate property or from wages of the nonapplying spouse, at least half of the community income shall be considered available to the applicant, plus any residue of the separate income or wages exceeding the amount of the requirements of the nonapplying spouse.

(v) Retirement benefits shall be treated like wages.

(vi) Income-in-kind shall be treated as community income.

(c) Exempted income shall not be used in computing the need of any assistance unit.

(d) For rules on assumptive spouse, see WAC 388-28-355.

(3) The rules in subsection (2) shall also apply to a person boarding and/or rooming in an adult family home or other nonmedical institution.

(4) When a person in medical institution is to receive an AFDC or continuing general assistance grant, family income shall be allocated first to the maintenance needs of legal dependents computed according to standards in chapters 388-28 and 388-30 WAC and then to the maintenance needs of the individual computed according to WAC 388-34-045, 388-34-085, 388-34-110, 388-34-120 or 388-34-378.

(5) When a person in a medical institution is to receive FAMCO, income shall be allocated according to WAC 388-83-045.

(6) The income of an individual applying for medical only shall be allocated according to WAC 388-83-045.

(7) The income of a person with other living arrangements is first applied to the grant requirements of the applicant and his dependents. Any remaining income

shall be allocated for medical needs. [Order 917, § 388-28-500, filed 3/14/74; Order 758, § 388-28-500, filed 12/28/72; Order 445, § 388-28-500, filed 4/28/70; Regulation 8.83, filed 5/17/67; Regulation 8.83, filed 6/14/66, 7/13/65, 1/24/64.]

**WAC 388-28-515 Net cash income—Determination—Employment or training expenses—Deductions from gross income.** (1) This section does not apply to earned income of a child. Specific rules applicable to a child are in WAC 388-28-535(3).

(2) "Gross income" means the total wages, commissions, salary, bonus, in cash or in-kind, currently earned by an individual or income received for the purpose of obtaining remedial education or vocational training.

(a) Deleted

(b) The \$30 monthly incentive payment made by WSES to any participant in a WIN program of institutional and work experience training is disregarded in AFDC.

(c) The \$30 weekly incentive payment received by a CETA participant is disregarded in AFDC. For continuing general assistance such payments are considered available to meet need.

(d) A person receiving an MDTA or CETA basic training allowance may not receive an AFDC or continuing general assistance grant concurrently.

(3) In determining net income from a training allowance, applicable expenses in subdivisions (4)(a) through (4)(d) shall be deducted from the gross training allowance received.

(4) Personal and nonpersonal work expenses computed according to subdivisions (4)(a) through (4)(d) shall be deducted from earnings according to the method outlined in WAC 388-28-570(8).

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

(b) The necessary cost for transportation of the recipient to and from the place of employment or training in accordance with the following limitations:

(i) The most economical means of transportation shall be used.

(ii) When public transportation is available at the recipient's regular place of residence and practical for his use, the allowance shall be the cost for such transportation from his home to the stop nearest his employment or training. The amount allowed is the actual cost of common carrier, based upon commuter's book of tickets, bus tokens at reduced quantity rate, etc., when available.

(iii) The term "public transportation" includes scheduled intracity and intercity busses, trains, boats, etc., but not "for hire" vehicles, such as taxis and rental cars.

(iv) When public transportation is not available or not practical for his use, a recipient who shows that he uses a car to travel to and from employment or the training facility shall be allowed mileage at the rate of eight cents per mile. Shared rides shall be prorated on an equitable basis, depending on the travel plan.

(c) Expenses of employment necessary for continued employment, such as, tools, materials, union dues, transportation to service customers if not furnished by the

employer. Cost of special uniforms and laundering thereof are taken into account in subdivision (4)(d).

(d) The additional cost of clothing in the following monthly amounts

(i) Individual working — \$5.70 monthly or the actual cost of special clothing whichever is higher. The term "special clothing" means uniforms or clothing needed on the job and not suitable for wear away from the job.

(ii) Individual enrolled in a remedial education or vocational training course — Actual cost of uniforms and/or special clothing required in training as priced by the ESSO.

(5) Expenses of necessary child care shall not be deducted from gross income to compute net income. Expenses of child care for a person in an approved training plan shall be authorized as a service cost as specified in WAC 388-15-170. For child care expenses of participants in the WIN program see WAC 388-57-057. Expense of child care for a person who is employed shall be authorized as an additional requirement. See WAC 388-28-150 and 388-28-155. [Order 1236, § 388-28-515, filed 8/31/77; Order 1229, § 388-28-515, filed 8/23/77; Order 1173, § 388-28-515, filed 11/24/76; Order 1096, § 388-28-515, filed 2/13/76; Order 975, § 388-28-515, filed 10/11/74; Order 891, § 388-28-515, filed 12/27/73; Order 445, § 388-28-515, filed 4/28/70; Order 375, § 388-28-515, filed 8/7/69; Order 329, § 388-28-515, filed 1/8/69; Order 296, § 388-28-515, filed 8/26/68; Regulation 8.841, filed 7/27/67; Regulation 8.841, filed 5/17/67, 2/23/67, 1/24/64.]

**WAC 388-28-525 Net cash income—Self-employment income and expenses.** (1) Earned income from self-employment is the amount left after deducting business expenses from gross business income.

(a) Capital expenditures are not deductible business expenses. Capital expenditures are those made to acquire fixed assets of permanent use or value in the self-employment enterprise.

(b) The cost of goods sold (including replacement of inventory) is to be included as an allowable business expense.

(2) In order to establish eligibility for public assistance, a self-employed person must maintain and make available to the department a record which documents all claimed business expenses and income.

(3) The applicable program earnings exemptions and personal and nonpersonal work expenses shall be deducted from self-employment earned income to determine the net amount available to meet need. [Order 891, § 388-28-525, filed 12/27/73; Regulation 8.842, filed 1/24/64.]

**WAC 388-28-530 Net cash income—Board, room rental, board and room.** (1) The net income from operating a rooming, boarding, or boarding and rooming home shall be computed as follows effective July 1, 1977:

(a) Boarder — The board payment received minus \$52,

(b) Roomer — The room rental received minus \$5,

(c) Boarder and roomer – The board and room payment received minus \$57.

(2) If a recipient is engaged in the management and operation of a rooming, boarding or boarding and rooming home, the net income as computed in accordance with subsection (1) is considered earned income to that recipient. [Order 1234, § 388-28-530, filed 8/31/77; Order 1206, § 388-28-530, filed 4/29/77; Order 786, § 388-28-530, filed 4/12/73; Order 650, § 388-28-530, filed 2/9/72; Regulation 8.843, filed 1/24/64.]

**WAC 388-28-532 Net cash income—Foster home for children and adult family home.** When payment is received by a recipient of or an applicant for public assistance who is operating a foster home for children or a family home for adults, that portion of payment made for such care which is in excess of the department's approved rate for such care shall be considered as net income available to the operator. [Order 786, § 388-28-532, filed 4/12/73.]

**WAC 388-28-535 Net cash income—Determination—Deductions from gross income—Income of child.** (1) A child may receive income which is paid in his behalf to the parent(s) or other needy caretaker relative. Such income includes allotments, retirement, survivors and disability insurance, or veterans benefits, court ordered support payments, trust fund payments, or other income which is legally designated for the benefit of an individual child.

(a) When such income meets or exceeds the child's requirements, the family shall have the option to

(i) include the child as a member of the assistance unit with all income considered as available to the assistance unit, or

(ii) exclude the child from the assistance unit. In this instance none of the child's income is available to the assistance unit.

(b) If a child's income includes a portion for his caretaker relative that portion shall be available to meet the need of the assistance unit.

(c) The child's requirements shall be the difference between the requirements of the assistance unit including the child and the requirements of the assistance unit excluding the child.

(d) If a child out of school has earnings which exceed his individual need, the family has the option of including him or excluding him from the assistance unit. If the child is included in the assistance unit, his earnings shall be treated as specified in item (3)(a)(iii). Determination of the child's net income is made with the caretaker relative and with the child when indicated.

(2) If the child is not included in the assistance unit, his eligibility for federal aid medical care only (FAMCO) shall be determined individually as specified in chapter 388-83 WAC.

(3) Computing earned income—child in assistance unit

(a) In determining the amount of a child's earned income available to meet the current need of the assistance unit of which he is a member, the following rules apply:

(i) Child under 14 years of age. If the child is under 14 years of age, no inquiry shall be made of the amount of his earnings since data show that the average earnings of such children are small.

(ii) Child 14 through 17 years of age – full or part time student

(A) All earned income of a child in an assistance unit shall be disregarded when he or she is a full time student or a part time student who is not a full time employee.

(B) A student is one who attends a school, college or university, or a course of vocational or technical training designed to fit him for gainful employment and includes a participant in the job corps program under the Economic Opportunity Act. A full time student must have a school schedule equal to a full time curriculum. A part time student must have a school schedule equal to at least one-half of a full time curriculum. A student who was enrolled during the school term just completed and who plans to return to school when it reopens shall retain his status as a student during the summer vacation.

(C) A child earning income by working in a sheltered workshop or other training facility for handicapped children shall be considered, for purposes of income exemption, as being at least a part time student who is working less than full time.

(D) To be employed full time, a child must be working 35 hours a week or the number of hours considered full time by the industry for which he works, whichever is less.

(E) Summer employment of students shall not be considered as full time employment due to the temporary nature of such employment, even though the hours worked may exceed 35 hours a week.

(F) See item (3)(a)(iv) for savings which may be accumulated under a casework service plan from these earnings.

(iii) Other AFDC child 14 through 17 years of age (nonstudent). In determining the amount of a child's earned income available to meet the current needs of the assistance unit when he (she) is not covered by rules in items (3)(a)(ii), net income shall be computed according to WAC 388-28-570.

(iv) Earned income disregarded under items (3)(a)(i), (ii) or (iii) may be retained by the child earning the income to cover the cost of special future identifiable needs.

(A) Such future identifiable needs may include amounts to meet future costs of identified employment training, education, health service or other plans which are necessary to carry out a casework service plan for the child and which are not otherwise available from DSHS or other community sources.

(B) A casework service plan must be developed in order to conserve savings for future identifiable needs. The plan should make possible realization of the child's maximum potential as an independent and useful citizen. The plan must be recorded in the case record and be approved by the supervisor.

(C) If the plan includes post-high school education or training, the total amount conserved for this purpose shall not exceed the cost of two years of education and



may include in this cost a car if approved by the caseworker and included as an essential part of the casework plan.

(D) Savings accumulated for future identifiable needs shall not be considered as part of the personal property holdings of the family and shall not be subject to the ceiling in WAC 388-28-430(2). [Order 1221, § 388-28-535, filed 8/8/77; Order 1194, § 388-28-535, filed 3/3/77; Order 1131, § 388-28-535, filed 7/8/76; Order 1004, § 388-28-535, filed 1/24/75; Order 976, § 388-28-535, filed 10/28/74; Order 749, § 388-28-535, filed 12/7/72; Order 619, § 388-28-535, filed 10/27/71; Order 375, § 388-28-535, filed 8/7/69; Order 320, § 388-28-535, filed 11/27/68; Emergency Order 309, filed 9/20/68; Order 296, § 388-28-535, filed 8/26/68; Regulation 8.844, filed 10/4/67; Regulation 8.844, filed 5/17/67, 3/31/66, 6/17/64, 1/24/64.]

**WAC 388-28-555 Net cash income—Guardianship costs—Retired, disabled and survivors insurance benefits—Veterans benefits.** When appointment of a legal guardian is required by the social security administration or the Veterans administration as a condition for receipt of a benefit from either agency, the necessary costs of securing a guardian shall be deducted from the benefit received to determine the individual's net income. [Order 1021, § 388-28-555, filed 4/29/75; Regulation 8.846, filed 1/24/64.]

**WAC 388-28-560 Net cash income—Income for support of legal dependents.** The income of a parent or step-parent shall be allocated in the following order:

(1) To pay court or administratively ordered support for any legal dependent(s) not living in his or her home. Such support is exempt up to the amount of the one-person continuing assistance need standard for each legal dependent. Verification must be obtained that the support payments are being made.

(2) To meet the requirements of those needy members of the family who are not eligible for AFDC and for whom the parent or step-parent is legally responsible. Such requirements shall be computed according to continuing assistance standards.

(3) To meet the requirements of members of the AFDC assistance unit for whom he or she is legally responsible. [Order 1253, § 388-28-560, filed 12/1/77; Order 1021, § 388-28-560, filed 4/29/75; Order 445, § 388-28-560, filed 4/28/70; Regulation 8.847, filed 12/31/65, effective 2/1/66; Regulation 8.847, filed 1/24/64.]

**WAC 388-28-570 Net cash income—Exempt earned income.** (1) For rules on exempting earned income of a full or part time student under age 18, see WAC 388-28-535 (3)(a)(ii). For rules exempting income from training see WAC 388-28-515. For rules on other income see WAC 388-28-580.

(2) Earned income defined

(a) As used in this section "earned income" shall mean income in cash or kind earned as wages, salary, commissions, or profit from activities in which the individual is engaged as a self-employed person or as an

employee. Earned income may be derived from self-employment (such as business enterprise or farming), or derived from wages or salary received as an employee. It also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock or poultry. Income from rentals is earned income, provided the individual has managerial responsibility for the rental property.

(b) For an AFDC recipient, earned income includes incentive payments under MDTA, earnings under Title I of the Elementary and Secondary Education Act, all earnings received under the Economic Opportunity Act, wages paid under Title I of the Comprehensive Employment and Training Act (CETA), wages from public service employment under CETA, and wages from WIN on-the-job training.

(i) For public service employment under the Emergency Assistance Act and CETA the \$30 plus one-third earned income exemption is applicable.

(ii) For public service employment under WIN the \$30 plus one-third earned income exemption does not apply. If net income after work expenses are deducted does not meet need according to department standards, a supplemental grant may be paid.

(c) The above definition of "earned income" excludes:

(i) Returns from capital investment with respect to which the individual is not himself actively engaged, as in a business. For example, under most circumstances, dividends and interest are excluded from "earned income." See WAC 388-28-580.

(ii) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, RSDI, etc. See WAC 388-28-580.

(iii) Income from WIN or CETA incentive payments, and training related expenses derived from WIN institutional or work experience training and from participation in CETA.

(d) When payment of income earned over a period of more than one month is delayed, the exemption applies to the period during which it was earned rather than the period of payment. For example, an individual spends six months planting, tending, harvesting and marketing a crop. The net income from his labor is \$402. The average monthly earned income is \$67 (\$402 divided by 6) for purposes of computing need.

(3) Deleted.

(4) Deleted.

(5) Deleted.

(6) Aid to families with dependent children

(a) Recipient - The first \$30 plus one-third of the remainder of total gross monthly earned income shall be exempt in determining the continuing eligibility and the amount of assistance for which an AFDC recipient and his dependents are eligible.

(i) Total gross monthly earned income for the purpose of this rule means the combined gross earned income of nonstudent dependent children and adults who are included in the AFDC assistance unit.

(ii) The earned income of any individual included in subsection (6)(a) will not be exempt for any month if

the individual within a period of 30 days preceding such month

(A) Terminated his employment or reduced his earned income without good cause, or

(B) Refused without good cause to accept employment in which he is able to engage which is offered through SES, or is otherwise offered by an employer if the offer of such employment is determined by the local office to be a bona fide offer of employment.

(b) Applicant - In determining eligibility of an AFDC applicant the income exemption of \$30 plus one-third is not applied. The disregard for students 14 through 17 years of age is applied.

(i) If eligibility exists without applying the \$30 plus 1/3 exemption, need and the amount of assistance which the applicant is to receive is determined by applying the exemption.

(c) Reapplicant - In determining the eligibility of an AFDC reapplicant whose needs were met by AFDC payment within one of the four preceding months, the income exemption of \$30 plus one-third and the disregard for students 14 through 17 years of age are applied as for a recipient according to subsection (6)(a).

(i) In determining the eligibility of other AFDC reapplicants, income is determined on the same basis as for an applicant according to subsection (6)(b).

(7) Deleted.

(8) Method of computing need - AFDC applicant with earned income

(a) In determining the need of an AFDC applicant with earned income,

(i) Determine the total monthly gross earned income of the assistance unit (excluding earned income for child under 14 and earned income of student 14 through 17 years of age.)

(ii) Deduct expenses of earning the income (see WAC 388-28-515),

(iii) Determine if the total net earned income plus other nonexempt income will meet the total requirements of the unit without allowing the \$30 plus 1/3 exemption of earned income.

(b) Subsection (8)(a) is not used if a reapplicant has received AFDC within the four months preceding reapplication.

(c) When an applicant is determined eligible according to subsection (8)(a) or (8)(b), and is otherwise eligible, need and the amount of grant are determined as follows:

(i) Determine the unit's gross monthly earned income (less earned income of child under 14 or full or part time student),

(ii) From the amount in (c)(i) deduct exempt income of \$30 plus one-third of the balance.

(iii) From the amount in (c)(ii) deduct monthly personal and nonpersonal work expenses as determined according to WAC 388-28-515. (Do not consider child care expense here - See WAC 388-15-170 for a person in training or WAC 388-28-155 for person who is employed.)

(iv) To the sum of (c)(iii) add other nonexempt income (RSDI, VA, UC, etc.).

(v) Deduct the sum of (c)(iv) from the unit's total requirements to determine need. [Order 1236, § 388-28-570, filed 8/31/77; Order 975, § 388-28-570, filed 10/11/74; Order 891, § 388-28-570, filed 12/27/73; Order 749, § 388-28-570, filed 12/7/72; Order 619, § 388-28-570, filed 10/27/71; Order 445, § 388-28-570, filed 4/28/70; Order 372, § 388-28-570, filed 8/1/69; Order 329, § 388-28-570, filed 1/8/69; Order 296, § 388-28-570, filed 8/26/68; Regulation 8.848, filed 10/4/67; Regulation 8.848, filed 5/17/67, 2/3/67, 11/22/66, 12/31/65, 7/13/65, 1/24/64.]

**WAC 388-28-575 Disregard of income and resources.** (1) In determining need and the amount of the assistance payment in AFDC, the following shall be disregarded as income and resources:

(a) Any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the commissioner of education, U.S. department of health, education, and welfare. The entire amount of such loan or grant is disregarded, irrespective of the use to which the funds are put.

(b) Any per capita judgment funds paid under Public Law 92-254 to members of the Blackfeet Tribe of the Blackfeet Indian Reservation, Montana, and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana.

(c) Any Indian claim settlement funds distributed per capita or held in trust as authorized in Section 7 of Public Law 93-134 or Section 6 of Public Law 94-114.

(d) The income and resources of an individual receiving benefits under supplemental security income for the period for which such benefits are received.

(e) Any payments received by Alaska natives under the Alaska Native Claims Settlement Act, to the extent such payments are exempt from taxation under Section 21(a) of that Act.

(f) From August 1, 1975 to September 30, 1976, forty percent of the first fifty dollars collected by the office of support enforcement in payment on the support obligations for the current month.

(2) In determining need and the amount of the assistance payment in AFDC and GA, the following shall be disregarded as income and resources:

(a) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(b) The value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons.

(c) The value of the U.S. Department of Agriculture donated foods (surplus commodities).

(d) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended.

(e) Any compensation provided to volunteers in ACTION programs established by Titles II and III of Public Law 93-113, the Domestic Volunteer Service Act of 1973. This policy is effective retroactively to October 1, 1973.

(f) Any compensation provided volunteers in ACTION programs established by Title I of Public Law 93-113, the Domestic Volunteer Service Act.

(g) Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended. [Order 1229, § 388-28-575, filed 8/23/77; Order 1183, § 388-28-575, filed 1/5/77; Order 1054, § 388-28-575, filed 9/25/75; Order 943, § 388-28-575, filed 6/28/74; Order 926, § 388-28-575, filed 4/15/74; Order 891, § 388-28-575, filed 12/27/73.]

**WAC 388-28-576 Tax reduction act of 1975—Payments disregarded.** The earned income tax credit provided for in Public Law 94-164, the Revenue and Adjustment Act of 1975 (as amended), shall be disregarded as income or resources in determining eligibility or amount of assistance for an AFDC grant for the month in which the refund is made or any month thereafter. The disregard shall be allowed only to an individual who was in recipient status during the month before the month in which the refund is received. [Order 1229, § 388-28-576, filed 8/23/77; Order 1175, § 388-28-576, filed 12/8/76; Order 1110, § 388-28-576, filed 4/15/76; Order 1028, § 388-28-576, filed 5/29/75.]

**WAC 388-28-578 Assistance from other agencies and organizations.** (1) Assistance from other agencies and organizations shall not be deducted in determining the amount of assistance to be paid by the department provided that no duplication shall exist between such other assistance and that provided by the department. To assure nonduplication, aid from other agencies will be considered in relation to:

(a) The different purposes for which such aid is granted, or

(b) The provision of goods and services not included in the department's standards.

(2) This section shall apply to loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs. [Order 891, § 388-28-578, filed 12/27/73.]

**WAC 388-28-580 Other income.** Net income from any other nonexempt source shall be the gross amount less any cost of securing or maintaining the income. [Order 1224, § 388-28-580, filed 7/19/77; Order 891, § 388-28-580, filed 12/27/73; Order 877, § 388-28-580, filed 11/27/73; Order 770, § 388-28-580, filed 1/26/73; Order 650, § 388-28-580, filed 2/9/72; Order 521, § 388-28-580, filed 3/2/71; Order 520, § 388-28-580, filed 2/24/71; Order 445, § 388-28-580, filed 4/28/70; Order 372, § 388-28-580, filed 8/1/69; Order 268, § 388-28-580, filed 12/5/67; Regulation 8.849, filed 12/28/66, 7/13/65, 1/24/64.]

**WAC 388-28-600 Determination of net income-in-kind.** (1) Definitions

(a) "Supplied" as used herein means the in-kind item is furnished to the applicant or recipient without work or cost on his part.

(b) "Self-produced" means the applicant or recipient has produced the in-kind item through his own work for himself and not for others. He has not purchased it.

(c) "Earned income-in-kind" as used in this section means the in-kind item is earned by work performed for another person by the applicant such as earning rent from a landlord, etc.

(2) The value of self-produced or supplied items shall be disregarded except when:

(a) Self-produced items are sold for cash. When such a sale is made, fifty percent of the cash sale value shall be considered expenses of earning the income.

(b) The household's requirement for shelter is supplied. When the household's shelter is supplied, the basic requirements for the household shall be those indicated in WAC 388-28-100(3).

(3) Earned income-in-kind items shall be evaluated in terms of their cash equivalent. Allowance shall be made for exempt earned income according to WAC 388-28-570. Remaining net income shall be applied in determining need. [Order 1101, § 388-28-600, filed 2/25/76; Order 786, § 388-28-600, filed 4/12/73; Order 650, § 388-28-600, filed 2/9/72; Order 561, § 388-28-600, filed 5/5/71; Order 521, § 388-28-600, filed 3/2/71; Regulation 8.850, filed 7/13/65; Regulation 8.850, filed 1/24/64.]

**WAC 388-28-650 Guardianships and trusts—Indians.** (1) When the superintendent of an Indian agency determines that an individual Indian under his jurisdiction needs help in managing his affairs, the superintendent has the authority, under Title 25, Code of Federal Regulations, Part 104, to control disbursement of the Indian's trust funds. When such authority has been exercised, and the Indian is an applicant for or a recipient of public assistance, the following rules apply:

(a) The superintendent must provide to the department a written statement that he is maintaining control of the Indian's trust funds according to the provisions of 25 CFR 104.

(b) The Indian or his representative must discuss with the superintendent the availability of trust funds in excess of exempt levels to meet public assistance need, and the superintendent must indicate to the department whether or not funds will be released for this purpose.

(c) Any trust funds disbursed directly to the Indian are under his control and are available to meet need.

(d) Funds held in trust by the superintendent and not disbursed are not available to meet need.

(e) Funds disbursed by the superintendent to third parties in payment for goods or services are not under the Indian's control, but may be available to meet need, depending on the nature of the disbursement.

(i) Disbursements to third parties for items which duplicate basic requirements, as defined in WAC 388-22-030(62)(b), are available to meet need.

(ii) Disbursements to third parties for items which do not duplicate basic requirements are not available to meet need. However, such items must be evaluated with regard to the resource limitations of WAC 388-28-430.

(f) Each periodic redetermination of eligibility shall include a review of disbursements from the individual Indian's trust account.

(2) Real property held in trust for an individual Indian is not an available resource. An Indian applying for

or receiving public assistance shall not be required to sell or attempt to sell allotted trust property as a condition of eligibility. Property which has lost its trust status is an available resource. [Order 1001, § 388-28-650, filed 1/14/75.]

### Chapter 388-29 WAC

#### AID TO FAMILIES WITH DEPENDENT CHILDREN AND CONTINUING GENERAL ASSISTANCE—ELIGIBILITY—STANDARDS OF ASSISTANCE

##### WAC

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**WAC 388-29-010 Standards for requirements—Person in own home.** (1) The public assistance law directs the department to establish a cost of living standard for use in determining whether or not an applicant needs money and if so how much he needs.

(2) The law specifies how this standard shall be made. The standard shall, except in special circumstances, be limited to "reasonable allowances for shelter, fuel, food, clothing, household maintenance and operation, personal maintenance, and necessary incidentals."

(3) The law also contains a measurement of what the legislature considers to be "reasonable allowances" for the cost of the items mentioned above.

(4) In line with this legal directive the department has devised and adopted a cost of living standard which is used to measure need and to determine the amount of the grant which will be given. The amount of the grant which is given is the difference between the monthly dollar value of the standard adjusted for the maximum grant limitation, and the resource value or income which the applicant or recipient possesses, or can obtain.

(5) In developing this standard the department has used the best sources of objective and authoritative information available, including reports and studies by:

- Federal and state departments and agencies
- Private research foundations
- Trade associations
- Universities and colleges
- Various other experts in specific fields.

(6) Establishment and maintenance of this standard involves deciding what quantity and quality of goods and services will be included, placing a monthly cost on the items and keeping this currently valid on a statewide basis.

(7) The costs of the items are secured from representative vendors in both small and large communities throughout the state. These costs are then averaged out for each item in order to establish a standard cost or costs which can be used throughout the state. In some cases the majority cost rather than the average is used.

(8) The recipient who receives a cash grant uses his own discretion in spending the total funds available to him (grant plus his other income) thus giving him freedom and responsibility in personal planning and variations in taste. [Order 1241, § 388-29-010, filed 9/23/77.]

**WAC 388-29-020 Family relationships.** (1) The law specifies who is eligible to receive assistance in his own right. The law does not always specify, except in general terms, which other persons may be included in the grant made to the primary person. The department, therefore, defines those who in addition to the primary person may have their requirements computed with the requirements of the primary applicant. Such family groupings are called "assistance units." The persons whose needs are included in the need of the primary applicant are those for whose support the applicant is legally responsible.

(2) Groupings (units) used in computing the requirements of individual members of assistance units are shown in WAC 388-29-025 through 388-29-100. [Order 1241, § 388-29-020, filed 9/23/77.]

**WAC 388-29-025 Limitations on requirements.** Specific policies in WAC 388-33-020 through 388-33-055 provide limitations which affect the amount of assistance paid by the department. [Order 1241, § 388-29-025, filed 9/23/77.]

**WAC 388-29-030 Assistance unit—Supplemental security income beneficiary excluded.** (1) If an individual is receiving benefits under Title XVI, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family or assistance unit for purposes of determining need and amount

of an aid to dependent children grant. [Order 1241, § 388-29-030, filed 9/23/77.]

**WAC 388-29-040 Housekeeper.** A person furnishing housekeeping service is not considered a member of an assistance unit. [Order 1241, § 388-29-040, filed 9/23/77].

**WAC 388-29-080 Monthly cost of basic requirements—Maximums—Person in own home—Person in medical institution.** (1) The standards for basic requirements in WAC 388-29-100 apply to a person in his own home. The standards in WAC 388-29-150 through 388-29-230 are additional requirements for persons with circumstances as specified.

(2) Individuals in an AFDC or continuing GA assistance unit require each of the basic requirements.

(3) Basic requirements for a person in his own home are food, clothing, personal maintenance and necessary incidentals, shelter and household maintenance. The monthly cost standard and maximums thereto are based upon the number of recipients in the assistance unit. When two or more assistance units share a common dwelling, the monthly standard for each is based upon the number of members of that assistance unit. A person receiving Title XVI benefits (SSI) is not considered as a member of an assistance unit.

(4) When a person is in a medical institution basic requirements of food, shelter and household maintenance are not computed in the grant but are paid as a medical care cost.

(5) The monetary allowance for the basic requirements, as determined by the standards in WAC 388-29-100, shall be reduced to the amounts in WAC 388-29-110. [Order 1248, § 388-29-080, filed 10/25/77, effective 12/1/77; Order 1241, § 388-29-080, filed 9/23/77.]

**WAC 388-29-100 Monthly standards for basic requirements—AFDC and continuing general assistance.**

(1) The statewide monthly standards for food, clothing, personal maintenance and necessary incidentals, household maintenance and shelter for those owning (including life estate), buying or renting an apartment or house shall be:

Recipients in Household	State Standard	Area Differential for King, Pierce Snohomish and Thurston Counties	State Standard Plus Area Differential for King, Pierce, Snohomish and Thurston Counties
1	\$190	\$11	\$201
2	263	29	292
3	330	25	355
4	391	25	416
5	452	25	477
6	513	25	538
7	574	25	599
8	635	25	660
9	696	25	721
10	757	25	782
11	818	25	843
12	879	25	904

Recipients in Household	State Standard	Area Differential for King, Pierce Snohomish and Thurston Counties	State Standard Plus Area Differential for King, Pierce, Snohomish and Thurston Counties
13	940	25	965
14	1001	25	1026
15	1062	25	1087
16	1123	25	1148
17	1184	25	1209
18 or more	1245	25	1270

(2) Deleted

(3) Household with supplied shelter.

The monthly standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, and household maintenance.

Recipients in household - all counties

1	\$123
2	179
3	238
4	297
5	357
6	415
7	472
8	531
9	589
10	646
11	705
12	764
13	823
14	881
15	939
16	999
17	1056
18 or more	1115

[Order 1241, § 388-29-100, filed 9/23/77.]

**WAC 388-29-110 Maximums to monthly standards for basic requirements.** Grants to families of 7 or more shall not exceed the following maximums. In computing the grant amount nonexempt income and resources which are available to meet need shall be deducted from the monthly standard specified in WAC 388-28-100.

	Number of recipients in household					
	7	8	9	10	11	12
Maximum	\$598	\$631	\$662	\$691	\$718	\$743
Maximum	\$766	\$787	\$806	\$823	\$838	\$851

[Order 1241, § 388-29-110, filed 9/23/77.]

**WAC 388-29-125 Cost standards for requirements—Persons in medical institution.** (1) The monthly cost standard for clothing, personal maintenance and necessary incidentals for a person eligible for

AFDC, supplemental security income or the "H" medical care program who is in a skilled nursing home, a public nursing home, a general or tuberculosis hospital or an intermediate care facility shall be \$25.00.

(2) The monthly cost standard for clothing, personal maintenance and necessary incidentals for a person eligible for continuing general assistance who is in an institution specified in subsection (1) shall be \$25.00. [Order 1241, § 388-29-125, filed 9/23/77.]

**WAC 388-29-130 Cost standards for requirements—Person in congregate care facility.** (1) The cost standard for congregate care shall be the rate established by the department for payment to specific congregate care facilities.

(2) Congregate care facility residents who receive SSI or GAU benefits are entitled to the earned and unearned income exemptions applicable to those programs. Any remaining nonexempt income shall be applied first toward the monthly cost standard for clothing, personal maintenance, and necessary incidentals, and then toward the cost of care.

(3) The monthly cost standard for clothing, personal maintenance, and necessary incidentals for a person in a congregate care facility shall be \$25.00, with the following exceptions:

(a) For a resident converted to the SSI program on January 1, 1974, the standard shall be \$27.30. This amount includes the monthly allowance of \$4.20 which is applicable to a resident on the date of conversion.

(b) For persons under 18 in developmental disabilities group homes, the standard shall be \$27.45. [Order 1254, § 388-29-130, filed 12/1/77; Order 1241, § 388-29-130, filed 9/23/77.]

**WAC 388-29-135 Cost standards for requirements—Maternity home care.** (1) The payment standard for a recipient of AFDC residing in a maternity home shall be \$404.70 per month, including \$27.45 clothing and personal incidentals.

(2) The standard for maternity home care for an unmarried child eligible for foster care payment shall be the rate established in the agreement between the department and the maternity home agency. [Order 1241, § 388-29-135, filed 9/23/77.]

**WAC 388-29-140 Monthly standards for basic requirements—AFDC—Child living with relative not in need.** (1) The standard for food, shelter, and household maintenance for a dependent child, eligible for AFDC, living with a relative not in need, shall be \$88 monthly for a child less than six years of age, \$114 monthly for a child 6 through 12 years, and \$137 monthly for a child of 13 years or older, plus \$27.45 for clothing and personal maintenance and necessary incidentals.

(2) The standard in subsection (1) applies to the family consisting of eligible children and parent(s) who is not in need unless the total amount of the unit's requirements computed at the standard in subsection (1) exceeds the standards in WAC 388-29-100, 388-29-

110 and 388-29-145, in which case those standards are applied.

(3) When a child lives with a relative who is in need, the standards in WAC 388-29-100, 388-29-110 and 388-29-145 are applicable. [Order 1241, § 388-29-140, filed 9/23/77.]

**WAC 388-29-145 Monthly standards for basic requirements—AFDC—Child in need of specialized education or training.** A child attending school under temporary absence provisions according to WAC 388-24-125(3)(b) is eligible for clothing and personal maintenance and necessary incidentals only. The monthly standard shall be \$27.45. The child shall not be included as a member of the household in computing the requirements for the household. [Order 1241, § 388-29-145, filed 9/23/77.]

**WAC 388-29-150 Standards for additional requirements under specified circumstances.** (1) The basic requirements provide the majority of eligible persons with all essential items of maintenance. Some persons, however, have particular needs of an essential nature which cannot be met within the basic requirements. For this reason the department's standards provide for certain additional requirements when the individual's circumstances are such that the item(s) is essential in accordance with the criteria herein established. The need of these items must be verified in each case where any are included. The additional requirement is added to the adjusted requirements of the appropriate assistance unit.

(2) The circumstances which give rise to an additional requirement may regularly recur or be nonrecurring depending on the nature of the item. In determining whether an additional requirement exists, the total case situation shall be taken into account, i.e., the changes which have occurred in health or living conditions and, if the problem is not new, how it was met in the past.

(3) The reasons for including an additional item, i.e., factual findings supporting the need (or continuing need) for the requirement inconsistent with the criteria herein, shall be recorded in the case narrative.

(4) A plan for periodically reviewing the necessity for continuing the allowance for an additional requirement shall be established in each case, taking into account the change in the individual's living arrangements, health, and any other factor which has a bearing on the need for the item.

(5) The need for any additional requirement must be reestablished as often as the case plan indicates, but at least semiannually, except that the need for housekeeping services must be reestablished at not less than sixty-day intervals.

(6) The nature of the review will vary depending on the conditions in each case, that is, may involve a review of the case documents only, or may require the securing of additional information. [Order 1241, § 388-29-150, filed 9/23/77.]

**WAC 388-29-160 Standards for additional requirements under specific circumstances—Restaurant**

**meals.** (1) Restaurant meals shall be an additional requirement only when:

(a) the individual is physically or mentally unable to prepare any of his meals, and

(b) board, or board and room, is not available or the use of such facilities is not feasible for an individual.

(2) The monthly additional requirement for restaurant meals shall be \$62.35. [Order 1241, § 388-29-160, filed 9/23/77.]

**WAC 388-29-170 Standards for additional requirements under specified circumstances—Daily restaurant meals.** (1) The standard for emergency restaurant meals shall be \$3.30 per day.

(2) The daily restaurant meal standard shall be used only when such assistance is required pending full determination of eligibility, or for temporary assistance of a week or less. The emergency standard shall be used not to exceed one week within a thirty-day period. When need for restaurant meals continues beyond one week, the standard in WAC 388-29-160 shall be used.

(3) The emergency restaurant meal allowance is a subsistence standard and does not provide adequate nutrition for a prolonged period. [Order 1241, § 388-29-170, filed 9/23/77.]

**WAC 388-29-180 Home delivered meals (meals-on-wheels).** (1) For some recipients who cannot be expected to prepare all of their own meals, prepared and home delivered meals may be available.

(2) Where a local office approved home delivery service of prepared meals is available recipients who need and would benefit from such service should be encouraged, authorized and assisted, if necessary, to obtain it.

(3) Standards and criteria used to authorize the service are as follows:

(a) The recipient requires help in preparation of some of his meals and would benefit nutritionally or otherwise from home delivered meals,

(b) Such help is not reasonably available without cost to the recipient,

(c) Board (or board and room) is not feasible or possible for the recipient,

(4) When a plan for use of this service is approved by local office, the cost standard to be used for the total food requirement of the recipient using the service shall be established by the department's office of economic services at the local office's request. [Order 1241, § 388-29-180, filed 9/23/77.]

**WAC 388-29-190 Transportation to state of legal residence.** (1) The cost of transportation is an additional requirement for a general assistance or emergency assistance nonresident who is being returned to his state of legal residence. This item shall be authorized only during the period of eligibility as defined in WAC 388-37-020(1)(a) and 388-24-260(3).

(2) The cost standard shall be the least expensive common carrier rate for fare and other necessary expenses enroute unless other means of transportation are advisable because of circumstances in the specific situation. [Order 1241, § 388-29-190, filed 9/23/77.]

**WAC 388-29-200 Standards for additional requirements under specified circumstances—Food for guide dog.** The cost of food for a guide dog shall be an additional requirement when an applicant for SSI or an assistance grant has a guide dog assigned to him by an accredited guide dog organization. The cost standard for food for a guide dog shall be \$20.05. [Order 1241, § 388-29-200, filed 9/23/77.]

**WAC 388-29-210 Telephone.** (1) Telephone service is an additional requirement only when the lack of a telephone would endanger life or make a more expensive type of care necessary. Telephone service is not allowed when the function of a telephone can be performed by other means, including the help of neighbors, relatives, or other community service.

(2) The monthly standard for telephone is the minimum rate available for the service. [Order 1241, § 388-29-210, filed 9/23/77.]

**WAC 388-29-220 Standards for additional requirements under specified circumstances—Laundry.** (1) Laundry is an additional requirement when:

(a) The applicant or recipient is physically unable to do his laundry, and

(b) He has no one able to perform this service for him.

(2) The monthly cost standard for laundry shall be \$5.45. [Order 1241, § 388-29-220, filed 9/23/77.]

**WAC 388-29-230 Winterizing homes.** (1) Repairs of homes owned or being purchased by AFDC recipients, to a maximum of \$500 for any one home, are an additional requirement under the following circumstances:

(a) The primary purpose of the repairs is to minimize heat loss or otherwise increase the efficiency of the home heating system,

(b) The repairs are necessary to render the home habitable,

(c) Lack of repairs would require the assistance unit to move to rental quarters,

(d) The rental costs expended by the assistance unit over a period of two years would exceed the costs, including repairs, attributable to continued occupancy of the home, and

(e) No expenditures for repair of the home have been made previously under the policies outlined in subsections (1)(a) through (1)(d) above.

(2) All expenditures for repairs shall be paid by vendor payments. [Order 1241, § 388-29-230, filed 9/23/77.]

**WAC 388-29-260 Requirements of person in boarding home—Continuing general assistance.** (1) The standard for board and room shall be \$137.90 per month or \$4.53 per day.

(2) The monthly standard for clothing and person maintenance and necessary incidentals shall be \$25.00. [Order 1241, § 388-29-260, filed 9/23/77.]

**WAC 388-29-270 Additional requirements.** Under specified circumstances the following items shall be considered additional requirements:

- (1) Transportation according to WAC 388-29-190,
- (2) Laundry according to WAC 388-29-220. [Order 1241, § 388-29-270, filed 9/23/77.]

**WAC 388-29-280 Adult family home care—Cost standards.** (1) The monthly cost standards for the grant requirements of an adult receiving approved care in an adult family home are:

- (a) \$241.85 a month for room, board, laundry, personal and social care and nursing care as appropriate or required, or
- (b) \$211.70 a month for room, board, laundry, personal and social care and necessary supervision, and
- (c) \$25 for clothing and personal maintenance and necessary incidentals. [Order 1241, § 388-29-280, filed 9/23/77.]

### Chapter 388-33 WAC

#### AID TO FAMILIES WITH DEPENDENT CHILDREN AND CONTINUING GENERAL ASSISTANCE—GRANT OR VENDOR PAYMENT

##### WAC

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388-33-355	Suspension of grant.
388-33-365	Termination of grant.
388-33-370	Termination of suspended grant.
388-33-375	Termination of suspended grant—Authorization of assistance resulting from change of decision on eligibility and grant.
388-33-377	Grant continuation pending fair hearing.
388-33-378	Determination—Notification.
388-33-380	Notification of suspension, termination or reduction of grant.

388-33-382	Notification of suspension, termination or reduction of grant—Effect on eligibility and grant.
388-33-385	Notification of suspension, termination or reduction of grant—Dispensation of advanced notice.
388-33-400	Payee of grant.
388-33-420	Payment of grant to other person in behalf of recipient.
388-33-425	Payment of grant to guardian—Continuing general assistance.
388-33-430	Payment of grant to guardian—Aid to families with dependent children—Special and limited nature.
388-33-440	Protective or vendor payment due to mismanagement of AFDC grant.
388-33-442	Protective or vendor payment due to mismanagement of AFDC grant—Plan approval—Duration.
388-33-444	Protective or vendor payment due to mismanagement of AFDC grant—Notice to AFDC recipient, protective payee or vendor.
388-33-446	Protective or vendor payment due to mismanagement of AFDC grant—Discharge of protective payee—Reinstatement of relative payee.
388-33-447	Protective or vendor payment due to mismanagement of AFDC grant—Fair hearing.
388-33-448	Protective or vendor payment due to mismanagement of AFDC grant—Periodic review of plan.
388-33-449	Protective or vendor payment due to mismanagement of AFDC grant—Information confidential.
388-33-450	Protective payments—Employment or work incentive program refused without good cause.
388-33-453	Protective payment—Failure or refusal to cooperate with support enforcement.
388-33-455	Protective payment—Special needs of SSI beneficiary or continuing general assistance recipient.
388-33-457	Protective payment—Modification or termination of plan.
388-33-458	Protective payment—Periodic review.
388-33-459	Protective payment—Fair hearing.
388-33-460	Payment to vendor of goods and services.
388-33-525	Warrant endorsement.
388-33-535	Delivery of warrant.
388-33-545	Delivery of warrant—Address unknown.
388-33-550	Delivery in care of local office.
388-33-576	Loss, theft or destruction of warrant payable to recipient.
388-33-577	Loss, theft or destruction of cash proceeds from warrant.
388-33-579	Loss, theft or destruction of warrant payable to vendor.
388-33-585	Cancellation of warrant.
388-33-595	One-time grant—Authorization—Computation—Disbursement.
388-33-605	One-time grant—Notification to recipient.
388-33-630	Public assistance emergency assistance fund.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-33-030	Payment limitations—Maximum cost of requirements. [Order 376, § 388-33-030, filed 8/7/69; Regulation 10.14, filed 12/31/65; Regulation 10.14, filed 1/24/64.] Repealed by Order 394, filed 10/15/69.
388-33-105	Grant authorization, reauthorization, computation—Recording denial, grant authorization and change. [Order 449, § 388-33-105, filed 5/14/70, effective 6/15/70; Regulation 10.24, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
388-33-143	Effective date of budgeting earned income. [Order 966, § 388-33-143, filed 8/29/74.] Repealed by Order 1008, filed 2/13/75.
388-33-145	Effective date of change in eligibility—Dates regular grant payments are actually changed. [Regulation 10.262, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
388-33-175	Other effective dates—Certification prior to actual change in circumstances. [Regulation 10.273, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.



- 388-33-180 Other effective dates—Recomputation of age change. [Regulation 10.274, filed 3/31/66; Regulation 10.274, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-210 Other changes affecting grants. [Regulation 10.30, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-220 Other changes affecting grants—Address change within county. [Regulation 10.31, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-245 Other changes affecting grants—Inter county transfer of case record and grant—procedure. [Regulation 10.323, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-250 Other changes affecting grants—Transfer—out by present county. [Regulation 10.324, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-255 Other changes affecting grants—Transfer—in by new county. [Regulation 10.325, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-260 Other changes affecting grants—Transfer involving institutional medical care. [Regulation 10.326, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-265 Other changes affecting grants—Transfer of suspended grant case. [Regulation 10.327, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-270 Other changes affecting grants—Transfer of closed case record. [Regulation 10.328, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-300 Other changes affecting grants—Out of state change of address. [Regulation 10.33, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-310 Other changes affecting grants—Case number change. [Regulation 10.34, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-320 Other changes affecting grants—Name change. [Regulation 10.35, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-350 Suspension or termination of grants. [Order 369, § 388-33-350, filed 8/14/69; Regulation 10.40, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-373 Continuation of assistance pending appeal—Pre-termination or pre-suspension hearing. [Order 534, § 388-33-373, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-373, filed 8/14/69.] Repealed by Order 570, filed 6/11/71.
- 388-33-374 Grant reduction, termination, suspension—Conferences. [Order 694, § 388-33-374, filed 6/29/72; Order 570, § 388-33-374, filed 6/11/71; Order 534, § 388-33-374, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-374, filed 8/14/69.] Repealed by Order 906, filed 2/14/74.
- 388-33-410 Payee of grant—Money (cash) payments. [Order 357, § 388-33-410, filed 5/29/69; Order 322, § 388-33-410, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.51, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-435 Payee of grant—Appointment and payment to agent—OAA, AB, DA, GAU. [Order 322, § 388-33-435, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.523, filed 1/24/64.] Repealed by Order 357, filed 5/29/69.
- 388-33-452 Protective payments—Fair hearing. [Order 322, § 388-33-452, filed 11/27/68; Emergency Order 306, filed 9/20/68.] Repealed by Order 357, filed 5/29/69.
- 388-33-454 Protective payments—OAA, AB, DA, GAU. [Order 357, § 388-33-454, filed 5/29/69.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-456 Protective payment—Periodic review. [Order 357, § 388-33-456, filed 5/29/69.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-470 Disbursement—Assistance grants. [Regulation 10.70, filed 8/10/67; Regulation 10.70, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-495 Payment dates. [Regulation 10.72, filed 8/10/67; Regulation 10.72, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-500 Payment dates—Initial grant. [Regulation 10.721, filed 8/10/67; Regulation 10.721, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-505 Payment dates—Adjusting grant. [Regulation 10.722, filed 8/10/67; Regulation 10.722, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-515 Payment dates—One-time grant. [Order 399, § 388-33-515, filed 11/5/69; Regulation 10.723, filed 8/10/67; Regulation 10.723, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-540 Delivery of warrant—Temporary address. [Regulation 10.741, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-555 Delivery of warrant—Change in address or circumstances reported direct to state office. [Regulation 10.744, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-575 Issuance of duplicate warrant. [Order 534, § 388-33-575, filed 3/31/71, effective 5/1/71; Order 426, § 388-33-575, filed 1/21/70; Regulation 10.75, filed 1/24/64.] Repealed by Order 661, filed 3/9/72.

**WAC 388-33-015 Payment of grant—Persons included.** Each grant shall encompass only one assistance unit, even though there may be two or more assistance units in the same family group or household. For proper allocation of requirements and income among assistance units see WAC 388-28-080 and 388-28-500. [Order 652, § 388-33-015, filed 2/9/72; Order 534, § 388-33-015, filed 3/31/71, effective 5/1/71; Regulation 10.11, filed 8/29/66; Regulation 10.11, filed 1/24/64.]

**WAC 388-33-020 Payment of grant—Monthly basis.** (1) Continuing grants shall be based upon a monthly assistance plan and payment made accordingly, except as provided in WAC 388-33-382 to comply with the advance notification requirement.

(2) For one-time grants see WAC 388-33-595. For emergency assistance payments see WAC 388-33-630. [Order 906, § 388-33-020, filed 2/14/74; Order 694, § 388-33-020, filed 6/29/72; Order 534, § 388-33-020, filed 3/31/71, effective 5/1/71; Regulation 10.12, filed 1/24/64.]

**WAC 388-33-025 Payment of grant—Amount.** Each grant shall be paid on the basis of need as defined in WAC 388-22-030 except as modified in WAC 388-33-045 through 388-33-055. [Order 534, § 388-33-025, filed 3/31/71, effective 5/1/71; Order 394, § 388-33-025, filed 10/15/69; Regulation 10.13, filed 8/29/66; Regulation 10.13, filed 1/24/64.]

**WAC 388-33-045 Payment of grant—Deduction of overpayment.** When a monthly deduction is made from a grant to repay on overpayment WAC 388-44-145 shall apply. [Order 534, § 388-33-045, filed 3/31/71, effective 5/1/71; Regulation 10.16, filed 8/29/66; Regulation 10.16, filed 3/31/66, 10/1/65, 1/24/64.]

**WAC 388-33-050 Payment of grant—Self-imposed maximum amount.** An eligible person may request payment of less than the amount for which he qualifies.

If such request is made in writing the grant shall be limited to the amount he stipulates. [Order 534, § 388-33-050, filed 3/31/71, effective 5/1/71; Regulation 10.17, filed 1/24/64.]

**WAC 388-33-055 Payment of grant—Minimum amount.** Grants shall be in the exact amount determined as payable, except that no grant of less than one dollar shall be paid. [Order 534, § 388-33-055, filed 3/31/71, effective 5/1/71; Regulation 10.18, filed 1/24/64.]

**WAC 388-33-080 Grant authorization, reauthorization and computation—Authorizing documents.** (1) All payments and changes in continuing public assistance grants are reported and authorized by the welfare eligibility examiner by signature on

(a) Forms 5822-M to authorize

(i) Initial, adjusting and regular payment of a prepaid continuing assistance grant and subsequent changes in the amount of grant;

(ii) Postpayment to a vendor for nursing home care in a licensed classified private nursing home, or for care in an intermediate care facility;

(b) Form 5822-G for one-time grant, public assistance emergency assistance warrants, child care payments and vendor payments. [Order 534, § 388-33-080, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-080, filed 5/14/70, effective 6/15/70; Regulation 10.21, filed 1/24/64.]

**WAC 388-33-085 Grant authorization, reauthorization and computation—Local office function.** (1) The terms "welfare eligibility examiner", "local office", or "local administrator or his designee" are used interchangeably in chapter 388-33 WAC.

(2) All grants to new, reopened and reinstated cases shall be authorized for payment by the local office. The authorization of grant form shall be signed and dated by the welfare eligibility examiner who prepares it, as indicated in WAC 388-33-080. In signing the form the welfare eligibility examiner attests in behalf of the state of Washington and the department that the eligibility of the individual(s) listed on the form has been established and that a decision has been made as of the effective date to grant assistance in an amount determined by the recipient's circumstances according to department standards.

(3) All changes in grants shall be certified by the worker specifying the change(s) in circumstances except as provided in WAC 388-33-095. The state office authorizes payment of the changed grant as determined by the certified circumstances of the recipient.

(4) The term "regular grant" includes "initial grant" and "adjusting grant". The regular grant authorization includes the initial or adjusting grant and does not require separate authorization. See definitions in WAC 388-22-030.

(5) The effective date of eligibility is determined and specified by the worker when authorizing new, reopened, reinstated, and one-time grants as provided in WAC 388-33-115 and WAC 388-33-120. When grant recomputation is certified, the effective date is determined

according to the rules in WAC 388-33-135 through 388-33-190.

(6) Payment of a grant shall continue in the amount authorized unless and until a change in amount, suspension or termination is certified.

(7) When eligibility factors indicate that an applicant will be eligible for not to exceed approximately a 30 day period, the local office shall authorize on the certification and computation of grant form an opening and closing date and determine the amount of assistance for which the applicant is eligible according to the department's monthly continuing assistance standards prorated for the period for which eligibility is authorized. Assistance is paid in cash to an eligible applicant as indicated in WAC 388-33-630. The certification and computation of grant form is forwarded to the state office as in any continuing case with the proper entry indicating that payment has been made to the applicant. The local office shall issue the applicant an award letter, including the date of opening, the amount of assistance and the date of termination. See WAC 388-33-380 regarding additional content of this notice relative to termination. [Order 906, § 388-33-085, filed 2/14/74; Order 534, § 388-33-085, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-085, filed 5/14/70, effective 6/15/70; Regulation 10.22, filed 1/24/64.]

**WAC 388-33-090 Grant authorization, reauthorization and computation—State office function.** (1) Except as specified in WAC 388-33-085(7) continuing assistance as authorized by the local office shall be computed by the state office. The amount of a grant (regular and initial or adjusting) shall be computed from the data on the certification and computation of grant form according to the department's cost standards for requirements.

(2) The personal and household data shown on the authorization of grant form shall be converted into money amounts without changing the information recorded by the local office on the form. The result of this computation shall show on the certification and computation of grant form in a manner which permits verification of amount by comparison with the department's cost standards.

(3) The certification and computation of grant form prepared by the state office shall be sent to the local office and retained in the financial case record until further action is indicated.

(4) The state office prepares the regular or supplemental warrant registers and the warrants, and completes the payment process. No change may be made by the state office except as described in WAC 388-33-090 and 388-33-095. [Order 906, § 388-33-090, filed 2/14/74; Order 534, § 388-33-090, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-090, filed 5/14/70, effective 6/15/70; Regulation 10.23, filed 1/24/64.]

**WAC 388-33-095 Grant authorization, reauthorization and computation—State office reauthorization and recomputation of grant.** (1) When the department adopts revised standards for requirements, or amends

rules regarding income, resources or eligibility, the state office shall determine whether state office recomputation of grant is feasible. If feasible, the state office shall establish the procedure, notify the local office by memorandum and prepare the certification and computation of grant form showing the grant computation.

(2) The state office reauthorizes and recomputes grants if current data about the recipient's eligibility and need are in the state office. If the state office reauthorizes grants the local office shall be informed of the termination or change in amount of the individual's grant. For this purpose the certification and computation of grant form shall be prepared by the state office for each payee and the form sent to the local office responsible for the case. [Order 906, § 388-33-095, filed 2/14/74; Order 534, § 388-33-095, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-095, filed 5/14/70, effective 6/15/70; Regulation 10.231, filed 1/24/64.]

**WAC 388-33-115 Effective date of eligibility—**  
**Applicant, reapplicant and reinstated recipient.** The effective date of eligibility shall be the date of authorization, or the thirtieth day after application, if more than thirty days are required to determine eligibility. In applying this rule the day application was made is not counted. [Order 906, § 388-33-115, filed 2/14/74; Order 534, § 388-33-115, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-115, filed 5/14/70, effective 6/15/70; Regulation 10.25, filed 1/24/64.]

**WAC 388-33-120 Effective date of eligibility—**  
**Exceptions.** (1) Change of Category

(a) The effective date of eligibility of a person receiving continuing assistance and applying for a grant in another program shall be the first regular warrant roll for which he is eligible for payment from the new program and the grant under the old program is terminated.

(2) Special event application - (See WAC 388-38-060 and 388-38-070)

(a) The effective date of a grant to a person (except as provided in subsection (1)) applying prior to the occurrence of an event which will make him eligible, shall be the date upon which the event occurs if eligibility otherwise exists on that date.

(b) When such event occurs on a nonworking day, the authorization shall be completed on the first working day following and dated as of the day the special event occurred. This rule also applies when the effective date of a reinstated grant (see subsection (4)) or the thirtieth day after date of application occurs on a nonworking day.

(3) Regular grant terminated in error

(a) A grant terminated because of local or state office error shall be reauthorized (corrected) as a "reopen" action. The effective date is the first of the month in which payment was erroneously discontinued on the regular warrant roll. Reopening shall be authorized promptly.

(b) If the error is discovered within the month in which no payment was made, the individual is not required to complete an eligibility review form. If the termination in error extends for more than thirty days but less than three months, an eligibility review form and

other periodic review procedures as appropriate are used. However, if the termination in error extends for more than three months a new application rather than periodic review is required.

(4) Reinstatement of suspended grant

(a) Upon receipt of a request for reinstatement of grant, the local office shall determine current eligibility and need using the periodic review process. The review includes consideration of all eligibility factors.

(b) The effective date of reinstating a grant suspended according to WAC 388-30-100(2)(b) shall be the date determined at the time of suspension.

(c) The effective date of reinstating a grant suspended because the monthly refund deduction resulted in a payment of less than \$1 shall be the first of the month following the month in which the overpayment is liquidated.

(d) A reinstated grant shall not be authorized before the date the event occurred which restored eligibility for payment.

(e) The individual who requests reinstatement of suspended grant within thirty days after a change in his circumstances need not complete an application form but shall complete an eligibility review form. [Order 906, § 388-33-120, filed 2/14/74; Order 791, § 388-33-120, filed 4/12/73; Order 747, § 388-33-120, filed 12/7/72; Order 534, § 388-33-120, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-120, filed 5/14/70, effective 6/15/70; Order 394, § 388-33-120, filed 10/15/69; Regulation 10.251, filed 1/24/64.]

**WAC 388-33-125 Notification of grant approval.**

(1) Except as indicated in WAC 388-33-085(7) a continuing assistance applicant or recipient shall be notified when the local office authorizes payment of his first regular grant or a change in grant. The state office mails form 5822-M-4, notice of grant approval, to the payee not later than three working days after receipt of the authorization. Form 5822-M-4 is mailed to the payee independently of his warrant.

(2) The procedure in subsection (1) applies to grant authorizations submitted to the state office by the local office for new, reopen, reinstate, program change and recompute transactions. For recompute transactions resulting in a changed grant amount, the notice of grant approval shows the former grant amount and the new grant amount. The notice of grant approval is sent to a recipient each time a change in grant is recomputed. See WAC 388-34-180 for notification to an applicant or recipient in an institution.

(3) The notice of grant approval is printed and mailed at the same time that the certification and computation of grant form is issued and sent to the local office. The receipt of this form by the local office is notification that the recipient has been notified of the change in amount of grant. [Order 906, § 388-33-125, filed 2/14/74; Order 534, § 388-33-125, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-125, filed 5/14/70, effective 6/15/70; Order 270, § 388-33-125, filed 12/5/67; Regulation 10.252, filed 7/27/67; Regulation 10.252, filed 7/13/65, 1/24/64.]

**WAC 388-33-135 Effective date of change in eligibility.** (1) A change in circumstances is any change which affects eligibility and/or continued payment of the grant previously authorized.

(2) When a change of circumstances renders the client ineligible, the effective date of ineligibility is the first of the month following the month in which the change occurred.

(3) When a change of circumstances results in an increase or reduction in the grant, WAC 388-33-140 is applicable. [Order 1058, § 388-33-135, filed 10/1/75; Order 694, § 388-33-135, filed 6/29/72; Order 534, § 388-33-135, filed 3/31/71, effective 5/1/71; Order 443, § 388-33-135, filed 4/15/70; Regulation 10.26, filed 1/24/64.]

**WAC 388-33-140 Effective date of increase or decrease in grant.** (1) Increase or reduction in grant

(a) When a change in circumstances results in an increase or reduction of the assistance grant the effective date of change is the first of the following month providing that the change is reported to the local office by the 21st day of the month.

(b) If the change in circumstances is not reported to the local office by the 21st day of the month the effective date of change is the first of the 2nd month following the month in which the change of circumstances occurred.

(c) If a change of circumstances resulting in a decrease in the grant amount is not reported until the month following its occurrence and after the 21st day of the month in which it is reported an overpayment shall be established.

(2) The effective date shall never precede the date the circumstances actually changed.

(3) Change in grant involving a cancelled warrant

When a warrant is cancelled and assistance is to be reissued by an adjusting payment, the effective date of the grant as recomputed by the state office is the first of the month covered by the cancelled warrant. If, according to the rule in subsection (1), any assistance is due the recipient for a month prior to that covered by the cancelled warrant, the local office shall authorize a one-time grant. [Order 1058, § 388-33-140, filed 10/1/75; Order 1008, § 388-33-140, filed 2/13/75; Order 966, § 388-33-140, filed 8/29/74; Order 906, § 388-33-140, filed 2/14/74; Order 791, § 388-33-140, filed 4/12/73; Order 534, § 388-33-140, filed 3/31/71, effective 5/1/71; Order 443, § 388-33-140, filed 4/15/70; Order 337, § 388-33-140, filed 2/3/69; Order 275, § 388-33-140, filed 1/29/68; Regulation 10.261, filed 1/24/64.]

**WAC 388-33-165 Effective date of grant—Fair hearing or court decision involved.** (1) The fair hearing or court decision will specify the effective date of eligibility or change in the grant. The regular grant change is made on the first possible regular warrant roll date. See WAC 388-33-595(2)(c)(v) for payment of any adjusting grant due.

(2) When the hearing decision is favorable to the claimant, or when the local office decides in favor of the

claimant prior to the hearing, the local office shall make corrective payments retroactively to the date an incorrect action was taken or such earlier date as is provided under department rules. [Order 694, § 388-33-165, filed 6/29/72; Order 534, § 388-33-165, filed 3/31/71, effective 5/1/71; Regulation 10.271, filed 1/24/64.]

**WAC 388-33-170 Effective date of grant—Law or rule change involved.** When change in eligibility or amount of grant results from change in law or department rules the effective date of eligibility for the change in the grant is specified by the department. [Order 534, § 388-33-170, filed 3/31/71, effective 5/1/71; Regulation 10.272, filed 1/24/64.]

**WAC 388-33-190 Effective date of grant—Monthly deduction of overpayment.** (1) A deduction from the monthly grant when required by WAC 388-44-145 takes effect with the first regular warrant following state office receipt of the certification and computation of grant form, taking into account the warrant roll deadline date and the advance notice period provided in WAC 388-33-380.

(a) The certification and computation of grant form shall not be submitted to start the monthly deduction until after the advance notice period has expired, and it has been confirmed that a fair hearing has not been requested.

(b) If, during the ten day period, the recipient requests a fair hearing regarding the monthly deduction of overpayment, no monthly deduction can be made until after the decision on the fair hearing has been made or the hearing request is withdrawn in writing by the claimant or abandoned.

(2) The local office shall certify discontinuance of the monthly deduction as soon as restitution is completed.

(3) A one-time grant shall be authorized expeditiously to compensate the recipient for an underpayment due to an erroneous monthly deduction. Also see WAC 388-33-595(2)(c)(vii). [Order 906, § 388-33-190, filed 2/14/74; Order 694, § 388-33-190, filed 6/29/72; Order 570, § 388-33-190, filed 6/11/71; Order 534, § 388-33-190, filed 3/31/71, effective 5/1/71; Regulation 10.28, filed 1/24/64.]

**WAC 388-33-195 Effective date of grant—Underpayment.** (1) A current recipient who received less than the correct amount of an assistance grant or service payment due to departmental error shall be paid the amount due.

(2) Retroactive corrective payment shall be limited to the twelve months preceding the month in which the underpayment is discovered.

(3) The effective date of the corrective payment is the date the payment is authorized.

(4) For purposes of determining continued eligibility and amount of assistance, corrective payments shall not be considered as income or as a resource in the month paid nor in the next following month. [Order 906, § 388-33-195, filed 2/14/74; Order 791, § 388-33-195, filed 4/12/73.]

**WAC 388-33-230 Address change to another local office area.** The eligibility of a recipient who moves from one LO area to another within the state is affected only insofar as his need may change. A change in residence usually involves a change in living arrangements, requirements and/or income, and reauthorization of grant. [Order 534, § 388-33-230, filed 3/31/71, effective 5/1/71; Regulation 10.32, filed 1/24/64.]

**WAC 388-33-235 Address change to another local office area—Reside permanently.** "Reside permanently" shall mean remaining in the new area for more than ninety days. Intent to reside permanently in another area shall be presumed to exist when the recipient is absent from his former residence for more than ninety days. The LO shall establish intent taking into account the plan, wishes and actions of the recipient. [Order 534, § 388-33-235, filed 3/31/71, effective 5/1/71; Regulation 10.321, filed 1/24/64.]

**WAC 388-33-240 Address change to another local office area—Visit.** (1) "Visit" shall mean absence of a recipient from his LO area of residence for not more than ninety days. The recipient's declaration of intent to return to his former residence within ninety days after the date he left shall be prima facie evidence that he is on a visit.

(2) The department's office in the area in which the recipient is visiting shall render all service needed to determine whether a change in the recipient's circumstances requires recomputation, suspension, or termination of grant. Any grant action required while the recipient is visiting shall be the sole responsibility of the LO in the area of permanent residence. Ordinarily no change in grant shall be made (other than redirection of warrant) while a recipient is visiting. The regular grant of a visiting recipient shall be increased only when recommended by the LO in the area in which the recipient is visiting. [Order 534, § 388-33-240, filed 3/31/71, effective 5/1/71; Regulation 10.322, filed 1/24/64.]

**WAC 388-33-335 Reduction of grant amount.** The grant of a continuing assistance recipient will be adjusted when the local office certifies a change of circumstances which reduces the recipient's need. [Order 906, § 388-33-335, filed 2/14/74; Order 694, § 388-33-335, filed 6/29/72; Order 570, § 388-33-335, filed 6/11/71; Order 534, § 388-33-335, filed 3/31/71, effective 5/1/71; Order 270, § 388-33-335, filed 12/5/67; Regulation 10.36, filed 6/30/67; Regulation 10.36, filed 1/24/64.]

**WAC 388-33-355 Suspension of grant.** (1) A suspension action is taken when

(a) The recipient has income sufficient to meet his maintenance requirements for more than one but not to exceed two months, or

(b) The amount deducted to make restitution on an overpayment results in a grant of less than one dollar per month, or

(c) The recipient has entered or is in an institution and his income is equal to or exceeds his grant requirements but is less than his grant requirements plus medical costs and/or nursing home or intermediate care.

(2) A suspended grant shall be reinstated when the conditions in subsection (1) cease to exist and the recipient is otherwise eligible.

(3) A suspended grant shall be terminated as provided in WAC 388-33-370. [Order 906, § 388-33-355, filed 2/14/74; Order 747, § 388-33-355, filed 12/7/72; Order 694, § 388-33-355, filed 6/29/72; Order 570, § 388-33-355, filed 6/11/71; Order 534, § 388-33-355, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-355, filed 8/14/69; Regulation 10.41, filed 6/30/67; Regulation 10.41, filed 7/13/65, 1/24/64.]

**WAC 388-33-365 Termination of grant.** (1) Termination of a grant is a direct action of the local office. Direct action means that the local office has determined and certified that the recipient fails to meet one or more of the conditions necessary to maintain continued eligibility.

(2) The grant shall be terminated when the local office determines that the recipient does not meet one or more of the conditions required for continued eligibility. [Order 906, § 388-33-365, filed 2/14/74; Order 694, § 388-33-365, filed 6/29/72; Order 570, § 388-33-365, filed 6/11/71; Order 534, § 388-33-365, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-365, filed 8/14/69; Regulation 10.42, filed 6/30/67; Regulation 10.42, filed 1/24/64.]

**WAC 388-33-370 Termination of suspended grant.**

(1) A suspended grant shall be terminated when

(a) The individual dies while the grant is suspended;

(b) The individual does not request reinstatement of grant within fifteen days after leaving an institution, or completing restitution of overpayment by monthly grant deduction.

(c) The individual's resources and/or income increase during the suspension period to the extent he would not be eligible for medical care;

(d) A period of temporary ineligibility has ended and individual is ineligible for some other reason. [Order 747, § 388-33-370, filed 12/7/72; Order 534, § 388-33-370, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-370, filed 8/14/69; Regulation 10.421, filed 6/30/67; Regulation 10.421, filed 1/24/64.]

**WAC 388-33-375 Termination of suspended grant—Authorization of assistance resulting from change of decision on eligibility and grant.** If the local office changes its decision to reduce, terminate or suspend the grant, assistance shall be authorized expeditiously to meet the recipient's need according to the rules. [Order 906, § 388-33-375, filed 2/14/74; Order 694, § 388-33-375, filed 6/29/72; Order 570, § 388-33-375, filed 6/11/71; Order 534, § 388-33-375, filed 3/31/71, effective 5/1/71.]

**WAC 388-33-377 Grant continuation pending fair hearing.** (1) When a recipient files a request for fair

hearing according to chapter 388-08 WAC and the request is filed within the advance notice period specified in WAC 388-33-380, assistance shall be continued, if the decision being appealed relates to proposed reduction, suspension, or termination.

(a) Such payment continues through the month in which a fair hearing decision is rendered, or request is withdrawn in writing by the claimant or abandoned, if there is an issue of fact or judgment including the correctness of application of the department's rules and policy.

(b) Such payment continues through the day of the fair hearing if the only issue is one of policy.

(c) Assistance payments made pending a hearing are subject to recovery by the department if its action is sustained by the hearing decision.

(2) Assistance shall be reinstated in any case where the notice to reduce, suspend or terminate the grant does not require advance notice, if the recipient requests a fair hearing within ten days of the mailing of the notice of action. Subsection (1) applies.

(3) When a monthly payment has been prorated as provided in WAC 388-33-382(2)(a), and (1)(a) and (1)(b) of this section apply, assistance shall be restored immediately to meet the recipient's needs according to rules and procedures.

(4) Assistance shall not be continued under the provisions in this section if the claimant requests in writing that assistance not be continued.

(5) When the claimant requests a hearing date delay, the state office shall determine the reasonableness of the request and whether assistance will be continued during the extended period. [Order 1194, § 388-33-377, filed 3/3/77; Order 906, § 388-33-377, filed 2/14/74; Order 694, § 388-33-377, filed 6/29/72; Order 570, § 388-33-377, filed 6/11/71.]

#### **WAC 388-33-378 Determination—Notification.**

(1) When a recipient requests a fair hearing within the advance notice period relative to a proposed reduction, suspension, or termination of assistance, the determination of whether the issue is one of policy or is an issue of fact or judgment will be determined at the fair hearing by the hearing examiner.

(2) The department shall promptly inform the claimant in writing if assistance will not be continued, based on the above determination that the issue is one of policy. [Order 906, § 388-33-378, filed 2/14/74; Order 747, § 388-33-378, filed 12/7/72.]

**WAC 388-33-380 Notification of suspension or termination or reduction of grant.** (1) In cases of grant actions to terminate, suspend or reduce assistance the local office shall give advance and adequate notice, except as provided in WAC 388-33-385.

(a) "Advance" means that the notice is mailed at least ten days before the date of action.

(b) "Adequate" means a written statement of what action the local office intends to take, the facts relating to the decision, the policy supporting the action, the right to request a fair hearing, and the circumstances

under which assistance is continued if a hearing is requested.

(2) When advance notice of grant action is not required as provided in WAC 388-33-385

(a) Notification of grant reduction shall be provided by state office

(b) The local office shall notify the recipient of suspension or termination action as described in subsection (1)(b).

(3) When changes in either state or federal law require automatic grant adjustments for classes of recipients, notice shall be given including the specific change in law. The state office shall determine the method by which notice is given. [Order 906, § 388-33-380, filed 2/14/74; Order 694, § 388-33-380, filed 6/29/72; Order 570, § 388-33-380, filed 6/11/71; Order 534, § 388-33-380, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-380, filed 8/14/69; Order 311, § 388-33-380, filed 10/31/68; Regulation 10.43, filed 1/24/64.]

**WAC 388-33-382 Notification of suspension or termination or reduction of grant—Effect on eligibility and grant.** (1) Rules governing the effective dates of eligibility resulting from changes in circumstances are not altered by rules on notification.

(2) Compliance with a required advance notice period may in some instances necessitate issuing assistance on a partial month basis.

(a) When a proposed action cannot be effected on the date specified by rules on eligibility and grant changes, assistance shall be continued unchanged until the end of the advance notice period. Monthly payment shall be prorated for the number of days needed.

(b) Assistance granted during a required advance notice period is not considered to be an overpayment. [Order 906, § 388-33-382, filed 2/14/74; Order 791, § 388-33-382, filed 4/12/73; Order 694, § 388-33-382, filed 6/29/72.]

**WAC 388-33-385 Notification of suspension or termination or reduction of grant—Dispensation of advance notice.** Advance notice of action to terminate, suspend or reduce assistance is not required when

(1) The local office has factual information of the death of the recipient or of the AFDC payee.

(2) A recipient has been admitted or committed to an institution which makes the recipient ineligible.

(3) A recipient has been placed in skilled nursing or intermediate care or long-term hospitalization.

(4) The recipient's whereabouts are unknown and departmental mail directed to him has been returned by the post office indicating no known forwarding address.

(5) A recipient has been accepted for assistance in another state or has moved to a different local office area if verified by the local office previously authorizing assistance.

(6) An AFDC child is removed from the home as a result of a judicial determination or voluntarily placed in foster care by his legal guardian.

(7) Eligibility for assistance or an additional requirement is determined to exist for a specific limited period of time and the recipient has been so advised.

(8) The local office receives a clear statement from the recipient that he no longer wishes assistance or that gives information which requires termination, suspension or reduction of assistance.

(a) The local office shall have reasonable assurance that the recipient understands the consequences of his supplying such information.

(b) The local office shall immediately send adequate notice to confirm verbal information reported by a recipient for eligibility purposes. [Order 906, § 388-33-385, filed 2/14/74.]

**WAC 388-33-400 Payee of grant.** (1) Cash payments are made directly to all continuing assistance recipients except as modified in items (2)(b)(ii) through (2)(b)(iv).

(2) Grants are paid

(a) To eligible persons in cash (state warrant), or

(b) To other persons in behalf of the eligible persons as

(i) Cash payments to parents and other relatives in behalf of children eligible for aid to families with dependent children;

(ii) Cash payments to guardians and agents as described in WAC 388-33-420 through 388-33-430;

(iii) Protective payment in GAU as specified in WAC 388-33-455;

(iv) Protective payments in aid to families with dependent children as specified in WAC 388-33-440, 388-33-450, and 388-33-453.

(v) Payments to vendors of goods and services supplied to eligible persons as described in WAC 388-33-460.

(3) In authorizing any payment of assistance the local office shall specify the person to whom the grant is to be paid. [Order 1054, § 388-33-400, filed 9/25/75; Order 906, § 388-33-400, filed 2/14/74; Order 534, § 388-33-400, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-400, filed 5/29/69; Order 322, § 388-33-400, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.50, filed 1/24/64.]

**WAC 388-33-420 Payment of grant to other person in behalf of recipient.** (1) Inasmuch as children are legally under the custody of their parents, AFDC payments are usually made to a parent or parents. When a parent is not available, payments are made to other relatives in behalf of the children. See WAC 388-33-430, 388-33-440 and 388-33-450 for AFDC payments other than to the parent or relative payee.

(a) Temporary AFDC payee. The following rule applies to temporary situations when a person other than a parent or specified relative lives with and assumes care and supervision of a child.

(i) When an emergency deprives a child receiving AFDC of the care and supervision of the parent or relative with whom he is living, AFDC may be continued and be paid to a person acting for the parent or relative during a temporary period required to make and carry

out new plans for the child's continuing care and support.

(ii) AFDC is continued under this rule for only the period of time actually necessary to carry out active planning for the continuing care of the child and to transfer responsibility for the child under a more permanent arrangement. The emergency payee is not included in the AFDC assistance unit.

(2) Arrangements for payment to someone other than the individual eligible for continuing general assistance shall be made only when he is definitely unable to make personal decisions for the use of his funds and the assistance of a relative, friend or caseworker is not possible or is not sufficient to continue money payments to him.

(3) When a money payment cannot be made directly to an applicant or recipient, a guardian shall be secured or a protective payee shall be designated.

(a) Guardianship is preferable when the individual

(i) Has resources in property, cash or negotiable assets which need management, or

(ii) Needs someone to control his private affairs to a greater extent than helping with the use of his assistance grant, for example, moving the recipient to a more desirable living arrangement.

(b) The designation of a protective payee (person to whom the grant is paid in behalf of the recipient) is preferable when

(i) Help with money management is the recipient's essential need, and

(ii) The recipient does not have resources requiring legal management, and

(iii) Voluntary guidance and assistance is not adequate, and

(iv) Guardianship is not feasible, practical or necessary. [Order 1241, § 388-33-420, filed 9/23/77; Order 917, § 388-33-420, filed 3/14/74; Order 621, § 388-33-420, filed 10/27/71; Order 534, § 388-33-420, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-420, filed 5/29/69; Order 322, § 388-33-420, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.52, filed 1/24/64.]

**WAC 388-33-425 Payment of grant to guardian—Continuing general assistance.** (1) The local office has no authority to petition the court for appointment of a guardian for an adult.

(2) The local office shall not authorize the use of assistance funds to pay the guardianship costs or services.

(3) Should a guardian die, move away, or decline to serve further, the guardianship should be terminated by court action. If the recipient lacks resources to pay for formal (legal) dissolution of guardianship, a change in payee is authorized, and

(a) If the guardian died, a copy of the death certificate is filed in the case record. If necessary, the cost of the death certificate can be paid from the administrative funds.

(b) If the guardian refuses or is unable to continue to serve, a signed statement from the guardian requesting that the grant no longer be paid to him is filed in the case record. [Order 917, § 388-33-425, filed 3/14/74; Order 534, § 388-33-425, filed 3/31/71, effective

5/1/71; Order 357, § 388-33-425, filed 5/29/69; Order 322, § 388-33-425, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.521, filed 1/24/64.]

**WAC 388-33-430 Payment of grant to guardian—Aid to families with dependent children—Special and limited nature.** If the LO finds that the relative payee of an AFDC grant is not using the grant adequately for the needs of an AFDC child and that it would be beneficial to have a court-appointed guardian, the LO may ask the chief of the child welfare and family services unit to request the attorney general to file a petition in the superior court for the appointment of a guardian of the child(ren). Such guardianship as provided in RCW 74.12.250 is special and limited solely for the purpose of safeguarding the assistance grants made to dependent children. Such guardianship shall terminate upon termination of such assistance grant or sooner upon order of the court. [Order 534, § 388-33-430, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-430, filed 5/29/69; Order 322, § 388-33-430, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.522, filed 1/24/64.]

**WAC 388-33-440 Protective or vendor payment due to mismanagement of AFDC grant.** (1) The rules in this section do not apply to WIN protective payments except as specified in WAC 388-33-450 nor to protective payments resulting from a failure to cooperate with the office of support enforcement except as specified in WAC 388-33-453.

(2) Purpose—criteria for use.

(a) Protective or vendor payment is designed for the small number of aid to families with dependent children cases in which the caretaker relative has demonstrated severe difficulty in managing money, but has the capacity to learn, in a relatively short time, with the aid of social services to manage his funds in a manner that will assure the proper care of the children. These payments may be vendor or money payments. Part of the payment may be made to the family and part may be made to the protective payee or vendor. Evidence of mismanagement of funds must be specific and clearly establish the fact that the way in which the funds are used threatens the well-being of the child. Examples are

(i) Continued inability to plan and spread necessary expenditures over the usual payment period,

(ii) Continued evidence that the children are not properly fed and clothed or that expenditures are made in such a way as to threaten their chances for healthy growth and development,

(iii) Persistent and deliberate failure to meet obligations for rent, food and other essentials,

(iv) Repeated evictions or incurrence of debts against current income.

(b) Protective or vendor payment is not used when the basic problem is insufficient funds rather than management of money. It is not intended for recipients whose mental or physical limitations would prevent them from learning how to manage their own affairs. Protective payment is not used when a financial problem is due only to emergency situations, such as short-term illness,

or an unexpected decrease in support payments, or other partial income.

(c) The use of protective or vendor payment is a temporary measure to help improve management and use of money for the best interest of the family. The availability of social services is an essential ingredient to accomplish the educational and constructive purposes of this plan. Chapter 388-16 WAC contains examples of the types of services to the relative in order to assist him or her to avoid the necessity of the protective payment plan or to discontinue its use expeditiously.

(d) The social services supervisor or local office administrator makes the decision to establish a protective or vendor payment plan upon recommendation by the worker. The case record must contain the evidence upon which the worker's recommendation is based. See WAC 388-33-442.

(3) Selection of another individual to be payee of grant

(a) An individual designated to receive all or part of the AFDC payment on behalf of a family must be interested in or concerned with the welfare of the child(ren) and the caretaker relative. To the extent possible, the caretaker relative shall choose the protective payee or participate in the selection of the protective payee. The individual may be

(i) A relative, friend, neighbor, clergyman, or member of a church or community service group,

(ii) An individual who serves with a voluntary social agency, such as family services or settlement centers,

(iii) A home economist with a public or private organization,

(iv) A staff member of homemaker services, house-keeping aide program, practical nurse association, or other agencies,

(v) A staff member of a public agency, such as one administering child welfare, health, rehabilitation, and housing programs,

(vi) An employee of the department when no other suitable person is available. A worker shall not serve as payee for cases in his regular caseload. Department specialists in home and money management are to be given preference over other department staff.

(b) To avoid conflict of interest situations the individual may not be

(i) The local office administrator,

(ii) The local office employee determining the financial eligibility of the family,

(iii) A vendor of goods and services dealing directly with the recipient, such as landlord or grocer,

(iv) Special investigative or resource staff or staff authorizing payments for the recipient,

(v) An employee of the department when the department has legal custody or the responsibility for placement and care of the family's child(ren).

(c) Standards for selecting a protective payee are

(i) Interest and concern in the welfare of the family,

(ii) Ability to help the family make proper use of the assistance payment,

(iii) Accessibility to the family,

(iv) Ability to establish and maintain a positive relationship with the family,



- (v) Good character and reliability.
- (d) Payee-recipient relationship

The protective payee has the authority and responsibility to make decisions about the expenditures of the assistance payments. The teaching component requires that the recipient participate to the extent of his ability in the decisions.

- (e) Payee-department relationship

(i) The payee and the department share in the responsibility for developing plans to improve the recipient's capacity to handle money and to evaluate progress.

(ii) The payee has responsibility for assuring the department that the assistance money has been spent on behalf of the children. This need not be a detailed account.

(iii) The payee's responsibility to the department is defined by the local office in writing with a copy for the recipient, payee, and case record.

- (4) Selection of vendor providing goods and services.

(a) In the absence of another individual to act as payee of a protective payment grant, assistance may be paid in whole or in part as vendor payments directly to persons furnishing food, living accommodations or other goods or services to or for the child or relative.

(b) Vendors shall be selected by the recipient or with his participation or consent to the extent possible. Vendors should be easily accessible to the recipient. [Order 1054, § 388-33-440, filed 9/25/75; Order 700, § 388-33-440, filed 7/27/72; Order 534, § 388-33-440, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-440, filed 3/20/69; Order 322, § 388-33-440, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-442 Protective or vendor payment due to mismanagement of AFDC grant—Plan approval—Duration.** An approved protective or vendor payment plan shall not exceed an initial period of three months. After review of the situation further periods of three months up to a maximum of twenty four consecutive months may be authorized. See WAC 388-33-448. [Order 700, § 388-33-442, filed 7/27/72; Order 534, § 388-33-442, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-442, filed 3/20/69; Order 322, § 388-33-442, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-444 Protective or vendor payment due to mismanagement of AFDC grant—Notice to AFDC recipient, protective payee or vendor.** (1) When a protective or vendor payment plan is approved the local office shall notify the relative payee in writing that a decision has been made to change the payee, the basis for determination, the name of the new payee, or the use of vendor payment, the effective date of change, and that he has the right to appeal the decision. [Order 700, § 388-33-444, filed 7/27/72; Order 534, § 388-33-444, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-444, filed 3/20/69; Order 322, § 388-33-444, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-446 Protective or vendor payment due to mismanagement of AFDC grant—Discharge of protective payee—Reinstatement of relative payee.** (1)

The protective payee may be removed upon his (her) request, when a different payee is designated by the local office or when the relative payee is ready to resume the payee function.

(2) Vendor payments are discontinued when another person is located to serve as protective payee or when the relative payee is ready to resume the payee function.

(3) The local office shall notify the principals of the revised plan to certify the change.

(4) If a guardian is appointed for the payee relative the protective payee is discontinued. [Order 700, § 388-33-446, filed 7/27/72; Order 534, § 388-33-446, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-446, filed 3/20/69; Order 322, § 388-33-446, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-447 Protective or vendor payment due to mismanagement of AFDC grant—Fair hearing.** (1)

The recipient has a right to request a fair hearing regarding the determination:

(a) That a protective or vendor payment should be made,

(b) As to the payee selected,

(c) That foster care will be provided for his child.

(2) This section does not apply to WIN protective payments nor to protective payments resulting from a failure to cooperate with the Office of Support Enforcement. [Order 1195, § 388-33-447, filed 3/3/77; Order 700, § 388-33-447, filed 7/27/72.]

**WAC 388-33-448 Protective or vendor payment due to mismanagement of AFDC grant—Periodic review of plan.** (1)

The social services supervisor or local office administrator shall review the conditions relating to the protective or vendor payment plan every three months or more often, if indicated. The review includes evaluation whether

(a) Conditions justify continuation of the plan or its modification,

(b) Protective payee's responsibilities are being carried out appropriately,

(c) The relative payee can be expected to resume the payee function,

(d) A court appointed guardian or foster care is needed because the relative payee cannot learn the payee functions and it appears the plan will continue beyond two years. [Order 700, § 388-33-448, filed 7/27/72; Order 534, § 388-33-448, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-448, filed 3/20/69; Order 322, § 388-33-448, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-449 Protective or vendor payment due to mismanagement of AFDC grant—Information confidential.**

Since a protective payment plan requires services, in many instances outside the agency, and the appointment of a protective payee to work in close relationship with the aid to families with dependent children

family, special effort must be made to safeguard information about the family.

Release of information to the protective payee from the public assistance record must be confined to those facts about the family members and their situation that are pertinent to the fulfillment of the payee's responsibility in the home. The need to respect the family's right to confidentiality shall be explained to a prospective protective payee. [Order 534, § 388-33-449, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-449, filed 3/20/69; Order 322, § 388-33-449, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-450 Protective payment—Employment or work incentive program refused without good cause.** (1) If an individual certified to the work incentive program has been determined to have refused without good cause to participate in the work incentive program or to accept a bona fide offer of employment, assistance in the form of protective or vendor payments will be provided under the conditions described in WAC 388-57-061.

(2) The local office shall notify the relative payee of his removal as described in WAC 388-33-444.

(3) Selection of another individual as payee shall follow criteria in WAC 388-33-440(3)(a)(b)(c). When vendor payments are made, at least the greater part of the payment will be through this method. See WAC 388-33-440(4).

(4) Payment to the relative payee shall promptly be resumed when notice is received from the department of employment security that the individual no longer refuses to participate in a work incentive program or employment or had good cause for refusal to participate. [Order 831, § 388-33-450, filed 7/26/73; Order 747, § 388-33-450, filed 12/7/72; Order 534, § 388-33-450, filed 3/31/71, effective 5/1/71; Order 322, § 388-33-450, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-453 Protective payment—Failure or refusal to cooperate with support enforcement.** (1) If the parent or other caretaker relative fails or refuses to cooperate with the office of support enforcement or other agencies in obtaining support payments as stipulated in WAC 388-24-108 and 388-24-109, assistance will be provided to meet the requirements of the otherwise eligible child(ren) in the form of protective or vendor payments.

(2) Criteria for expenditure of funds shall be as follows:

(a) Disposition of funds shall be made first to assure shelter costs, food, clothing and necessary utilities for the children.

(b) There shall be no proration of payments for the parent/caretaker relative's share of common household expenses.

(c) Payments for the requirements of the children shall not be used to meet the individual requirements of the parent(s) or caretaker relative.

(3) When a protective payment is established, the ESSO will notify the caretaker relative in writing of this

fact, the name of the protective payee and the effective date of the change.

(4) The selection of a protective payee shall be made in accordance with WAC 388-33-440(3)(a)(b) and (c), with the exception that the protective payee shall not be the parent/caretaker relative or the spouse of the parent/caretaker relative.

(5) The manner in which the protective payee performs will be reviewed at least every three months and the caretaker relative's circumstances will be reviewed as frequently as indicated.

(6) Payment to the relative payee shall not be resumed without written approval by the office of support enforcement stating that the individual is cooperating in obtaining support.

(7) The rules in this section as to the person selected as protective payee and manner of disbursements are not subject to a fair hearing. [Order 1195, § 388-33-453, filed 3/3/77; Order 1054, § 388-33-453, filed 9/25/75.]

**WAC 388-33-455 Protective payment—Special needs of SSI beneficiary or continuing general assistance recipient.** (1) Protective payment for a SSI beneficiary or continuing general assistance recipient is payment to another individual designated as protective payee.

(2) The objective in making protective payments is to assist in money management or provide management of funds for the individual who, by reason of physical or mental condition, is incapable of handling his money in a manner conducive to his continuing health, social adjustment and acceptance in the community.

(3) Allowances for the cost of chore service or special needs such as restaurant meals may be issued to a protective payee when the individual manifests a persistent inability to manage and use his funds for their intended purposes.

(4) When the local office determines that an SSI beneficiary is unable to manage his award, a referral shall be made to the social security administration district office for consideration of the designation of a representative payee.

(5) Protective payment is not used when the basic problem is insufficient funds rather than money management or when a financial problem is due to an emergency situation such as short-term illness.

(6) Assistance funds shall not be authorized to the protective payee for his costs or services.

(7) The facts supporting a determination of an individual's inability to manage funds must be specific and clearly establish that his misuse of funds threatens his well being, for example:

(a) Medical or psychological evaluations,

(b) Observation of gross conditions such as extensive paralysis, serious mental retardation, continued disorientation, or severe memory loss,

(c) Continued inability to plan and spread necessary expenditures over the usual payment period,

(d) Persistent failure to pay for rent, utilities, food and other essentials.

(8) The individual designated to receive the payment on behalf of a SSI beneficiary or a continuing general

assistance recipient must be interested in or concerned with his welfare. The selection of the protective payee is preferably made by the recipient or with his participation and consent to the extent possible. The protective payee may be

(a) A relative, friend, clergyman, or member of a church,

(b) A member of a community service group, for example, an active participant in a senior citizen's center who takes an interest in being of help to his contemporaries,

(c) An individual who serves with a voluntary social agency or a home economist with a public or private organization,

(d) A staff member of homemaker services, house-keeping aid program, practical nurse association or other agencies,

(e) A staff member of a public agency, such as one administering health, rehabilitation and housing programs,

(f) The superintendent of a public institution for mental disease or for the mentally retarded or his designee,

(g) A department employee when no other suitable person is available. The person determining financial eligibility shall not serve as payee.

(9) To avoid conflict of interest the protective payee may not be

(a) The local office administrator, special investigative or resource staff, or staff handling fiscal processes related to the recipient,

(b) A vendor of goods and services dealing directly to the recipient, such as landlord, nursing home operator, operator of social care facility, or grocer.

(10) Standards for selecting a protective payee are:

(a) Interest and concern in the welfare of the individual,

(b) Ability to help the individual make proper use of the assistance payment when feasible,

(c) Accessibility to the individual,

(d) Ability to establish and maintain a positive relationship with the individual,

(e) Good character and reliability.

(11) The protective payee has the authority and responsibility to make decisions about the expenditure of assistance payments. He should encourage the recipient to participate to the extent of his ability in the decisions.

(a) The payee has responsibility for assuring the department that the assistance is spent on behalf of the recipient. An itemized account is not required, but a record of expenditures for the basic needs of food, shelter, clothing and utilities shall be maintained and kept current for review.

(b) The protective payee may not be qualified as the primary source of information regarding eligibility. His authority extends only to the grants received and not to the other financial affairs of the recipient. In making a review, the local office must continue to consult the recipient, when he can give pertinent information. Other appropriate persons should be consulted when necessary.

(12) The local office shall provide the recipient and payee a written agreement on the respective roles of the

protective payee and the department. Copies of the agreement shall be furnished to the payee and the recipient, and a copy retained in the case record. The local office shall undertake and continue special efforts to protect the welfare of the individual in need of protective payment. The local office in cooperation with the payee shall strive to improve the individual's capacity for self-care and money-management to the extent possible.

(13) The social service supervisor or local office administrator makes the decision to establish a protective payment upon recommendation by the worker. The case record must contain the evidence upon which this recommendation is based.

(14) The decision to establish a protective payment plan shall be discussed with the recipient. He shall be notified in writing of the change in payee, the basis of the determination, the name of the protective payee designated and the effective date of the change. [Order 933, § 388-33-455, filed 5/15/74; Order 917, § 388-33-455, filed 3/14/74; Order 534, § 388-33-455, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-455, filed 5/29/69.]

**WAC 388-33-457 Protective payment—Modification or termination of plan.** (1) The protective payee may be removed upon his or her request, when a different payee is designated by the LO, or when the recipient is capable of resuming management of his own funds.

(2) When a judicial appointment of a guardian or other legal representative appears to serve the best interests of the individual, such appointment will be sought and the protective payment terminated when the appointment has been made.

(3) The revised plan shall be discussed with the principals and confirmed in writing. [Order 534, § 388-33-457, filed 3/31/71, effective 5/1/71.]

**WAC 388-33-458 Protective payment—Periodic review.** The need for protective payments and the way in which a protective payee's responsibilities are carried out shall be reconsidered as frequently as indicated by the individual's circumstances and at least every six months. [Order 534, § 388-33-458, filed 3/31/71, effective 5/1/71.]

**WAC 388-33-459 Protective payment—Fair hearing.** A recipient has the right to a fair hearing if dissatisfied with the decision that a protective payment shall be made or continued, and as to the protective payee selected, or that foster care will be provided. Procedures in chapter 388-08 WAC are followed. [Order 534, § 388-33-459, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-459, filed 5/29/69.]

**WAC 388-33-460 Payment to vendor of goods and services.** (1) A vendor payment may be used to provide assistance for an individual who is in emergent need from the date his continuing assistance grant is authorized to the date of payment of such grant when public assistance emergency assistance fund warrant or state office cash payment is not feasible. The vendor payment shall be deducted from the initial and/or regular grant

and shall not exceed the standards for the continuing program. No vendor payment is authorized to the extent the recipient can meet his emergent need from his exempt cash savings. Payment is restricted to those basic items for which the emergency exists, that is, food, shelter, utilities. See WAC 388-33-630.

(2) A vendor payment may be used to provide assistance when a recipient dies before receiving or endorsing a warrant due him and owes for personal and household service, housekeeping service, or board and room. The amount authorized for vendor payment shall equal the portion of the cancelled warrant actually owed to the vendor.

(3) A vendor payment may be used to provide assistance for any individual or family eligible for general assistance when cash payment is not possible or practical.

(4) A vendor payment may be used to provide assistance for a person repeatedly convicted of criminal offenses. Repeated convictions for criminal offenses lead to a presumption of the inability of the individual to utilize a cash grant in a manner that is beneficial to the individual and to the community. This presumption can be overcome by showing that there is no relationship between the types of offenses committed and the ability to handle cash. If a presumption is not overcome, alternative plans, if possible, are made along the following lines:

(a) Appointment and payment to a legal guardian following a determination of incompetency by the court,

(b) Payment to another relative with whom the recipient lives (general assistance or aid to families with dependent children),

(c) Appointment and payment to a protective payee,

(d) Vendor payment,

(e) A person adjudged "a common drunk" and eligible for public assistance for whom subsection (4)(a), (b), and (c) are not practical or possible, may be granted assistance as follows:

(i) Board and room paid directly to a boarding home or mission(s). The disbursing order is written to authorize an expenditure on a daily basis. The vendor bills the department at the end of the designated period for the cost of the board and room.

(ii) Clothing according to the assistance standard purchased by voucher or authorized as a cash payment to the recipient.

(iii) A cash payment to the recipient for personal items and necessary incidentals.

(5) A vendor payment may be used under the conditions described in WAC 388-33-595 when direct cash payment is not feasible.

(6) A vendor payment may be used for an AFDC recipient when

(a) The local office determines that protective payments are necessary due to mismanagement of the grant by the relative payee - see WAC 388-33-440.

(b) A person certified to the WIN program is determined by the state employment service to have refused employment or to participate in the WIN program without good cause, and vendor payments are the necessary form of payment - see WAC 388-33-450.

(c) A parent or other caretaker relative refuses to assign support rights, to cooperate in identifying and locating absent parents, establishing paternity or obtaining support payments.

(7) A vendor payment may be used to provide assistance for a recipient in a licensed and classified nursing home - see WAC 388-34-035 through 388-34-055, or for a recipient in an intermediate care facility - see WAC 388-34-370 through 388-34-384. [Order 1054, § 388-33-460, filed 9/25/75; Order 747, § 388-33-460, filed 12/7/72; Order 534, § 388-33-460, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-460, filed 5/14/70, effective 6/15/70; Order 341, § 388-33-460, filed 3/20/69; Regulation 10.60, filed 1/24/64.]

**WAC 388-33-525 Warrant endorsement.** (1) Assistance warrants are written to show the payee's surname first, followed by given name and initial, e.g., Smith, John K. The endorsement should be written in the usual manner, that is John K. Smith.

(2) Each warrant must bear the personal endorsement of the payee. No other person, unless he has power of attorney is authorized to endorse and cash the recipient's warrants. If the recipient is unable to sign his name the warrant must be endorsed by his mark or thumbprint, witnessed by two persons, giving their name and addresses.

(3) If the warrant is endorsed by payee name only, the department cannot stop payment if some one other than the payee cashes the warrant.

(4) A person having power of attorney may legally endorse a warrant only when:

(a) The payee (recipient) has granted power of attorney on a properly prepared and legally sufficient document,

(b) The document is recorded in the office of the county auditor,

(c) Two copies of the recorded document certified by the county auditor are on file in the department. [Order 747, § 388-33-525, filed 12/7/72; Order 534, § 388-33-525, filed 3/31/71, effective 5/1/71; Regulation 10.73, filed 1/24/64.]

**WAC 388-33-535 Delivery of warrant.** (1) After eligibility has been established and a grant authorized the recipient shall receive his warrant promptly without interruption until his grant is suspended or he is no longer eligible and the grant has been terminated except as provided in WAC 388-30-121 and WAC 388-33-382.

(2) The state office shall mail the recipient's warrant directly to his address as certified by the LO except as provided in WAC 388-33-545 through 388-33-550. [Order 747, § 388-35-535, filed 12/7/72; Order 534, § 388-33-535, filed 3/31/71, effective 5/1/71; Regulation 10.74, filed 1/24/64.]

**WAC 388-33-545 Delivery of warrant—Address unknown.** (1) At the time the local office requests the warrant of a recipient whose address is unknown a letter shall be mailed to the recipient at his last known address requesting his current address according to provisions in

WAC 388-30-115. [Order 747, § 388-33-545, filed 12/7/72; Order 534, § 388-33-545, filed 3/31/71, effective 5/1/71; Regulation 10.742, filed 3/11/65; Regulation 10.742, filed 1/24/64.]

**WAC 388-33-550 Delivery in care of local office.**

(1) A recipient may request in writing that his warrant be mailed to him in care of the local office; his address is certified accordingly. The warrant will be delivered in an individual sealed envelope.

(2) Delivery of a warrant in care of the local office through local or state office action to redirect shall be as provided in WAC 388-30-121. [Order 747, § 388-33-550, filed 12/7/72; Order 534, § 388-33-550, filed 3/31/71, effective 5/1/71; Regulation 10.743, filed 3/11/65; Regulation 10.743, filed 1/24/64.]

**WAC 388-33-576 Loss, theft or destruction of warrant payable to recipient.** (1) The legal authority for issuing a duplicate warrant is found in RCW 43.08.064 and RCW 43.08.066.

(2) A recipient payee reporting to the ESSO that he has not received his warrant or that his unendorsed warrant has been lost, stolen or destroyed is given full consideration. The ESSO shall have the recipient payee complete an affidavit or affidavits attesting to the reported facts.

(3) The ESSO shall secure all facts surrounding the nonreceipt or loss reported in subsection (2), assess the reported facts and make a judgment as to the validity of the report, determine a course of appropriate action, and inform the recipient, record the details of the report and the decision in the financial record.

(4) In cases where the facts surrounding the nonreceipt or loss are clear and the ESSO is satisfied a loss has occurred a request for an exception to policy shall be made to the regional office for replacement assistance.

(5) In cases where the facts surrounding the nonreceipt or loss are not clear and question remains as to the validity of the nonreceipt or loss, a request for replacement is made directly to the general audit unit. Replacement will be made only after further investigation is completed and validity of the nonreceipt or loss is verified.

(6) A report which indicates a warrant is lost in the mail system will be held in abeyance for 10 days from the mailing date of the warrant to allow the warrant to be delivered or returned to the ESSO. If the recipient is unable to wait 10 days a request for an exception to policy shall be made to the regional office to waive the 10 day waiting period.

(7) A loss or nonreceipt reported to the ESSO 60 days or more after the mailing date of the warrant will not be replaced by an exception to policy. Replacement must be requested directly from general audit unit.

(8) An unendorsed warrant which is lost, stolen or destroyed shall be replaced in full. Restrictively or specially endorsed warrants shall be deemed to be unendorsed warrant for the purposes of this subsection.

(9) An endorsed warrant which is lost, stolen or destroyed shall be considered under the rules in WAC

388-33-577 for lost, stolen or destroyed proceeds from the warrant.

(10) The state and economic and social service offices shall take appropriate action to protect the state from loss if the original unendorsed warrant is redeemed by the state treasurer. [Order 1164, § 388-33-576, filed 10/27/76; Order 1055, § 388-33-576, filed 9/25/75; Order 1026, § 388-33-576, filed 5/19/75; Order 661, § 388-33-576, filed 3/9/72.]

**WAC 388-33-577 Loss, theft or destruction of cash proceeds from warrant.** (1) When a recipient payee reports to the ESSO that the cash proceeds of his warrant, or an endorsed warrant, have been lost, stolen or destroyed, the ESSO shall have the recipient payee complete an affidavit attesting to the reported facts.

(2) The ESSO shall secure all facts surrounding the loss reported in subsection (1); assess the reported facts and make a judgment as to the validity of the report; determine an appropriate course of action and record the details of the report and the determination made in the financial case record.

(3) Replacement of the proceeds of a warrant shall be made only after regional office approval of an exception to policy and is limited to the amount approved. Proceeds will be replaced only to meet emergent needs. [Order 1164, § 388-33-577, filed 10/27/76; Order 661, § 388-33-577, filed 3/9/72.]

**WAC 388-33-579 Loss, theft or destruction of warrant payable to vendor.** (1) When a vendor payee reports to the local office that a warrant was not received or that an unendorsed warrant has been lost, stolen or destroyed, LO shall have the vendor payee complete an affidavit attesting to the reported facts.

(2) The local office shall secure all facts surrounding the non-receipt or loss reported in subsection (1); assess the reported facts and make a judgment as to the validity of the report; determine a course of action appropriate to the facts of the case.

(3) The local office follows procedures established by the department and allows the time needed to make the necessary determination for processing these claims before a duplicate warrant will be issued.

(4) Replacement of unendorsed warrants shall be made in accordance with the procedures established by the department.

(5) The department will not be responsible for replacing an endorsed warrant or cash proceeds of a warrant lost by a vendor. [Order 661, § 388-33-579, filed 3/9/72.]

**WAC 388-33-585 Cancellation of warrant.** (1) A warrant not endorsed by the payee before he died shall not be endorsed by or to another person. A warrant payable to a deceased payee must be returned to the department for cancellation. See WAC 388-33-460 for vendor payment in such situations.

(2) A warrant not endorsed by a payee (with dependents in his assistance unit) who has left his home must be returned to the SO for cancellation, unless it is feasible to hold the warrant until the payee returns. If there

is another eligible payee the warrant is returned for cancellation and the LO simultaneously certifies grant recomputation and name change. [Order 534, § 388-33-585, filed 3/31/71, effective 5/1/71; Order 426, § 388-33-585, filed 1/21/70; Regulation 10.76, filed 1/24/64.]

**WAC 388-33-595 One-time grant—Authorization—Computation—Disbursement.** (1) See WAC 388-22-030 for definition of "one-time grant."

(2) A one-time grant may be authorized and disbursed in the amount necessary subject to the following rules:

(a) A one-time grant shall be authorized for a recipient of continuing assistance only. The category of assistance (federal aid or continuing general assistance) shall be determined by the person's eligibility during the period for which the one-time grant is authorized.

(b) A one-time grant authorization is a single payment procedure. It expires when the warrant is mailed. It does not change the amount of the continuing (regular) grant currently authorized.

(c) A one-time grant shall be authorized when:

(i) An additional requirement recognized by department standards will be needed for one month only. Additional requirements are limited to those items listed in WAC 388-28-150 through 388-28-251.

(ii) Income or assistance budgeted as available to the assistance unit or family is not received for one month only. The payment shall be the difference between the grant received and the grant which should have been received. If budgeted income will not be available for two or more months, a change in regular grant shall be authorized.

(iii) Deleted.

(iv) Supplemental assistance is needed from the date a recipient leaves an institution to the receipt of the regular, adjusting, or reinstated grant. The amount of the payment shall be deducted from the regular, adjusting or reinstated grant. See WAC 388-33-630(1)(a).

(v) The fair hearing decision or the court decision on an appeal requires initiating, reinstating or increasing a grant. The one-time grant covers the period from the effective date specified in the decision to the first of the month in which a regular warrant can be paid on a regular warrant roll. The minimum grant rule does not apply in this instance.

(vi) Deleted.

(vii) A recipient is to be compensated for an underpayment due to erroneous monthly deduction(s) established according to WAC 388-44-145. See also WAC 388-33-190(3).

(viii) Any one-time grant that is approved by the state office under chapter 388-20 WAC for reasons other than those listed in this section.

(ix) A person who is added to an assistance unit requires assistance prior to the effective date of his inclusion in a regular grant.

(x) A cancelled warrant is to be reissued and the recipient cannot wait for payment by adjusting grant.

(xi) Deleted.

(xii) Assistance is being continued in compliance with the 10-day advance notice rules on reduction, suspension or termination of a grant and a partial month payment is required.

(xiii) Underpayment due to the departmental error is to be corrected. Such payment shall be limited to the amount due for not to exceed twelve months including the month in which the corrective payment is authorized.

(d) Except as provided in items (2)(c)(v), (2)(c)(vii), and (2)(c)(xiii), a retroactive one-time grant shall not cover a period of more than 60 days before the date of authorization.

(e) The effective date of a one-time grant shall be the authorization date. [Order 1176, § 388-33-595, filed 12/23/76; Order 1068, § 388-33-595, filed 11/17/75; Order 933, § 388-33-595, filed 5/15/74; Order 791, § 388-33-595, filed 4/12/73; Order 698, § 388-33-595, filed 7/13/72; Order 534, § 388-33-595, filed 3/31/71, effective 5/1/71; Order 426, § 388-33-595, filed 1/21/70; Order 399, § 388-33-595, filed 11/5/69; Regulation 10.80, filed 6/14/66; Regulation 10.80, filed 1/24/64.]

**WAC 388-33-605 One-time grant—Notification to recipient.** The LO shall send written notice to the recipient advising him of the approval of a one-time grant, the amount thereof and the requirement(s) for which it is intended. [Order 534, § 388-33-605, filed 3/31/71, effective 5/1/71; Regulation 10.81, filed 1/24/64.]

**WAC 388-33-630 Public assistance emergency assistance fund.** (1) Public assistance emergency fund payment is used to provide assistance:

(a) For supplemental assistance needed from the date a recipient leaves an institution to receipt of a regular, adjusting or reinstated grant. The amount of the payment shall be deducted from the regular, adjusting or reinstated grant;

(b) For an applicant when eligibility factors indicate that he is eligible for continuing assistance for a limited period of time, not to exceed approximately 30 days, and total assistance is to be paid by the ESSO. Payment is made according to continuing assistance standards for the exact period of eligibility;

(c) For a recipient who is eligible for noncontinuing general assistance;

(d) For a one-time grant when this form of payment is approved by the ESSO administrator;

(e) For an applicant who is in emergent need from the date his continuing assistance grant is authorized to the payment of such grant. This payment is part of the initial or regular grant to the recipient and, to avoid duplication of assistance, is reported on the authorization form as a deduction. This payment is limited to emergency food, emergency rent, emergency utilities or emergency clothing for children.

(2) A public assistance emergency assistance fund warrant is issued in the name of the eligible payee and not to a vendor. [Order 1165, § 388-33-630, filed 10/27/76; Order 791, § 388-33-630, filed 4/12/73; Order 534, § 388-33-630, filed 3/31/71, effective

5/1/71; Order 499, § 388-33-630, filed 5/14/70, effective 6/15/70.]

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**Reviser's note:** Administrative Order No. 535 filed with the Code Reviser on March 31, 1971 purported to adopt editorial revisions to chapter 388-34 WAC relating to the eligibility and payment of public assistance to persons in institutions. Emergency Order No. 560, filed April 30, 1971 and Permanent Order 573, filed 6/22/71 repeals Order 535 before its effective date of May 1, 1971.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 388-34-060 Authorizing initial and continuing eligibility and grant—Procedures. [Regulation 11.132, filed 8/29/66; Regulation 11.132, filed 1/24/64.] Repealed by Order 759, filed 12/28/72.
- 388-34-065 Authorizing initial and continuing eligibility and grant—Reporting procedure between county office and state office. [Regulation 11.133, filed 1/24/64.] Repealed by Order 651, filed 2/9/72.
- 388-34-070 Intermediate care facility—Eligibility. [Order 323, § 388-34-070, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-072 Intermediate care facility—Determination of need for intermediate care. [Order 395, § 388-34-072, filed 10/15/69; Order 323, § 388-34-072, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-074 Intermediate care facility—Placement of recipient. [Order 395, § 388-34-074, filed 10/15/69; Order 323,

§ 388-34-074, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.

- 388-34-076 Intermediate care facility—Services to be provided by operator. [Order 395, § 388-34-076, filed 10/15/69; Order 323, § 388-34-076, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-078 Intermediate care facility—Payment standards—Rates—Procedures. [Order 562, § 388-34-078, filed 5/19/71; Order 553, § 388-34-078, filed 4/1/71; Order 467, § 388-34-078, filed 7/21/70; Order 395, § 388-34-078, filed 10/15/69; Order 377, § 388-34-078, filed 8/7/69; Order 339, § 388-34-078, filed 2/14/69; Order 323, § 388-34-078, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-080 Intermediate care facility—Payment procedures—Operator's responsibility. [Order 395, § 388-34-080, filed 10/15/69; Order 323, § 388-34-080, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-082 Intermediate care facility—Periodic review and re-evaluation. [Order 395, § 388-34-082, filed 10/15/69; Order 323, § 388-34-082, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-084 Intermediate care facility—Application from facility to provide intermediate care. [Order 395, § 388-34-084, filed 10/15/69.] Repealed by Order 651, filed 2/9/72.
- 388-34-130 Patient in psychiatric facility—Commercial home not subject to state licensing. [Regulation 11.50, filed 7/27/67; Regulation 11.50, filed 3/21/67, 8/29/66, 1/24/64.] Repealed by Order 455 (part), filed 5/18/70.

**WAC 388-34-010 Institutional living arrangements.**

(1) The standards, policies and procedures in this chapter apply to applicants and recipients in or entering public and private nursing homes, hospitals, fraternal or benevolent homes, maternity homes, commercial homes not subject to licensing, and other miscellaneous homes.

(2) The policies and procedures for processing applications, determining initial and continuing eligibility and making payments to persons in such situations are the same as those which apply to persons in their own homes except as modified herein. However, the standards for the requirements and the computation and payment of the financial need of persons in institutions differ in some respects from those for persons in their own homes. Consequently, this chapter deals with the assistance standards and special procedures for payment to and in behalf of the eligible persons in the various types of institutions.

(3) The assistance unit, when a person is in an institution for more than a temporary period, consists of the individual patient only. Legal dependents in the family home constitute a separate assistance unit. [Regulation 11.00, filed 1/24/64.]

**WAC 388-34-015 Definitions.** (1) "Medical institution" shall mean an institution which:

(a) Was established and is operated to provide medical care, nursing care and/or convalescent care, and has the necessary professional personnel, equipment and facilities to manage the medical needs of patients on a continuing basis in accordance with accepted standards.

(b) Is staffed by professional medical or professional nursing personnel who have clear and definite responsibility to the institution in the provision of medical services to patients. The term "staffed by" shall not mean

5/1/71; Order 499, § 388-33-630, filed 5/14/70, effective 6/15/70.]

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**Reviser's note:** Administrative Order No. 535 filed with the Code Reviser on March 31, 1971 purported to adopt editorial revisions to chapter 388-34 WAC relating to the eligibility and payment of public assistance to persons in institutions. Emergency Order No. 560, filed April 30, 1971 and Permanent Order 573, filed 6/22/71 repeals Order 535 before its effective date of May 1, 1971.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 388-34-060 Authorizing initial and continuing eligibility and grant—Procedures. [Regulation 11.132, filed 8/29/66; Regulation 11.132, filed 1/24/64.] Repealed by Order 759, filed 12/28/72.
- 388-34-065 Authorizing initial and continuing eligibility and grant—Reporting procedure between county office and state office. [Regulation 11.133, filed 1/24/64.] Repealed by Order 651, filed 2/9/72.
- 388-34-070 Intermediate care facility—Eligibility. [Order 323, § 388-34-070, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-072 Intermediate care facility—Determination of need for intermediate care. [Order 395, § 388-34-072, filed 10/15/69; Order 323, § 388-34-072, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-074 Intermediate care facility—Placement of recipient. [Order 395, § 388-34-074, filed 10/15/69; Order 323,

§ 388-34-074, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.

- 388-34-076 Intermediate care facility—Services to be provided by operator. [Order 395, § 388-34-076, filed 10/15/69; Order 323, § 388-34-076, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-078 Intermediate care facility—Payment standards—Rates—Procedures. [Order 562, § 388-34-078, filed 5/19/71; Order 553, § 388-34-078, filed 4/1/71; Order 467, § 388-34-078, filed 7/21/70; Order 395, § 388-34-078, filed 10/15/69; Order 377, § 388-34-078, filed 8/7/69; Order 339, § 388-34-078, filed 2/14/69; Order 323, § 388-34-078, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-080 Intermediate care facility—Payment procedures—Operator's responsibility. [Order 395, § 388-34-080, filed 10/15/69; Order 323, § 388-34-080, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-082 Intermediate care facility—Periodic review and re-evaluation. [Order 395, § 388-34-082, filed 10/15/69; Order 323, § 388-34-082, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-084 Intermediate care facility—Application from facility to provide intermediate care. [Order 395, § 388-34-084, filed 10/15/69.] Repealed by Order 651, filed 2/9/72.
- 388-34-130 Patient in psychiatric facility—Commercial home not subject to state licensing. [Regulation 11.50, filed 7/27/67; Regulation 11.50, filed 3/21/67, 8/29/66, 1/24/64.] Repealed by Order 455 (part), filed 5/18/70.

**WAC 388-34-010 Institutional living arrangements.**

(1) The standards, policies and procedures in this chapter apply to applicants and recipients in or entering public and private nursing homes, hospitals, fraternal or benevolent homes, maternity homes, commercial homes not subject to licensing, and other miscellaneous homes.

(2) The policies and procedures for processing applications, determining initial and continuing eligibility and making payments to persons in such situations are the same as those which apply to persons in their own homes except as modified herein. However, the standards for the requirements and the computation and payment of the financial need of persons in institutions differ in some respects from those for persons in their own homes. Consequently, this chapter deals with the assistance standards and special procedures for payment to and in behalf of the eligible persons in the various types of institutions.

(3) The assistance unit, when a person is in an institution for more than a temporary period, consists of the individual patient only. Legal dependents in the family home constitute a separate assistance unit. [Regulation 11.00, filed 1/24/64.]

**WAC 388-34-015 Definitions.** (1) "Medical institution" shall mean an institution which:

(a) Was established and is operated to provide medical care, nursing care and/or convalescent care, and has the necessary professional personnel, equipment and facilities to manage the medical needs of patients on a continuing basis in accordance with accepted standards.

(b) Is staffed by professional medical or professional nursing personnel who have clear and definite responsibility to the institution in the provision of medical services to patients. The term "staffed by" shall not mean



that the institution has to have resident medical or nursing staff but staff must be assigned and available to give necessary care. An institution which has a doctor who calls once a week to "look in on people to see how they are getting along" or in which a matron can call a doctor when a person in the institution gets sick, is not "staffed by" professional personnel in this context.

(2) "Nursing care in commercial home not subject to state licensing" means nursing services in a home operating for profit with nursing care facilities for one or two persons only.

(3) "Nursing home" means a public or private licensed nursing home certified by the department to provide skilled nursing or intermediate care, or both, with which the department has entered into the appropriate agreement or agreements.

(4) "Skilled nursing care" means care provided in a facility which has been appropriately licensed and certified under the terms of the state and federal regulations including the agreement for skilled nursing home care.

(5) Deleted

(6) "Patient" shall mean an individual who

(a) Is admitted to a medical institution on the recommendation of a physician or dentist because of illness and there is a planned medical treatment directed toward improvement in health, or palliative medical measures are required, though improvement in health or recovery cannot be expected, and

(b) Is receiving professional medical treatment, including nursing care, directed by a licensed practitioner of the healing arts, and

(c) Is free to leave at the conclusion of the treatment or at any time upon his own decision. A patient in a psychiatric hospital (JCAH approved) sixty-five years of age or over or an eligible person under 21 years of age is not affected by this provision. See chapter 388-95 WAC.

(7) "Private institution" shall mean an institution operated by non-governmental authority and subject to the administrative control of a privately designated governing body or the proprietor(s).

(8) "Public institution" shall mean an institution authorized by law, supported in whole or in part from public funds and under the effective administrative control of a public official or a publicly appointed or elected governing body.

(9) "Psychiatric facility" or "facility" includes the two state mental hospitals, private psychiatric hospitals and general hospitals having psychiatric beds, with which the department has an agreement or contract for the care of persons sixty-five years of age and over and under 21 years of age.

(10) "Intermediate care facility" (ICF) is an institution or a distinct part of an institution which is licensed under state law and has entered into a contract with the department to provide residents thereof, on a regular basis, the range or level of care suitable to eligible recipients who because of their physical or mental condition or both require living accommodations and care which as a practical matter can be made available to them only through institutional facilities but do not have

such disability as to require the degree of care which a skilled nursing home provides.

(11) "Intermediate care" means care in an intermediate care facility including institutional services.

(12) "Institutional services" means those items and services furnished by the institution in connection with providing the regular range or level of care and services suitable to the needs of a resident in an intermediate care facility. Institutional services do not include personal maintenance and necessary incidentals and clothing for which the recipient receives a cash grant or medical care provided under the regular medical program for recipients. [Order 1044, § 388-34-015, filed 8/14/75; Order 323, § 388-34-015, filed 11/27/68; Order 249, § 388-34-015, filed 11/1/67; Regulation 11.01, filed 1/24/64.]

**WAC 388-34-020 Eligibility conditions.** (1) If otherwise eligible, a person in a non-federal institution shall be eligible for a public assistance grant when he is a

(a) Patient in a psychiatric hospital (JCAH approved) and is either sixty-five years of age or over or under 21 years of age.

(b) Patient in a medical institution but not because of a diagnosis of psychosis (unless he qualifies under subdivision (1)(a)),

(c) Patient in a tuberculosis hospital and is eligible for continuing general assistance (see WAC 388-34-120),

(d) Resident in an intermediate care facility.

(2) A person is not eligible for a grant if he is

(a) In a federal institution,

(b) An inmate (non-patient) in a public institution,

(c) In an institution for mental disease or in a tuberculosis hospital other than as specified in subdivisions (1)(a) and (1)(c). [Order 1044, § 388-34-020, filed 8/14/75; Order 323, § 388-34-020, filed 11/27/68; Order 249, § 388-34-020, filed 11/1/67; Regulation 11.02, filed 1/24/64.]

**WAC 388-34-025 Eligibility conditions—Eligibility for AFDC—Child or needy relative temporarily in institution.** (1) A child temporarily in a public or private institution and otherwise eligible for aid to families with dependent children as long as he is a member of a family which maintains responsibility for his welfare according to WAC 388-24-125.

(2) The needy relative, who is responsible for the care of a child eligible for aid to families with dependent children, shall not be eligible for aid to families with dependent children when he (she) lives in a public or private institution except temporarily during which time adequate care is provided for the child.

(3) A person in a maternity home is eligible for services according to WAC 388-70-110 through 388-70-118. [Order 759, § 388-34-025, filed 12/28/72; Order 249, § 388-34-025, filed 11/1/67; Regulation 11.03, filed 1/24/64.]

**WAC 388-34-035 Skilled nursing home care.** The local office is responsible for determining and authorizing the initial and continuing eligibility of an individual who requires skilled nursing home care. [Order 759, §

388-34-035, filed 12/28/72; Regulation 11.10, filed 8/29/66; Regulation 11.10, filed 1/24/64.]

**WAC 388-34-040 Skilled nursing home care—Application.** The rules in chapter 388-38 WAC apply when application is made in anticipation of or after entry into a nursing home. [Order 759, § 388-34-040, filed 12/28/72; Regulation 11.11, filed 8/29/66; Regulation 11.11, filed 1/24/64.]

**WAC 388-34-045 Skilled nursing home care—Cost standards for requirements.** (1) The cost of skilled nursing home care shall be the department's rates for the class of care needed as determined by the department's nursing care consultant or the classification of the home in which the care is given, whichever is lower, unless special authorization is given by the department's office of personal health services for a particular home to give a specified patient a class of care more costly than that at which the home is classified.

(2) Deleted

(3) Deleted

(4) If an individual needs less than Class II care and it is desirable to keep him in a skilled nursing home, the skilled nursing home will be paid at the intermediate care facility rate. See WAC 388-34-378. [Order 1017, § 388-34-045, filed 4/14/75; Order 907, § 388-34-045, filed 2/14/74; Order 862, § 388-34-045, filed 10/11/73; Order 842, § 388-34-045, filed 8/9/73; Order 824, § 388-34-045, filed 7/26/73; Order 732, § 388-34-045, filed 10/27/72; Order 675, § 388-34-045, filed 5/10/72; Order 651, § 388-34-045, filed 2/9/72; Order 553, § 388-34-045, filed 4/1/71; Order 377, § 388-34-045, filed 8/7/69; Regulation 11.12, filed 2/23/67, 8/29/66, 3/31/66, 12/31/65, 1/24/64.]

**WAC 388-34-055 Skilled nursing home care—Authorization and payment.** (1) The assistance unit for purposes of authorizing payment of the requirements of a person in a nursing home is the patient only. The need of dependents shall not be "included in" or computed as part of the patient's need.

(2) The requirements for a person in a skilled nursing home shall be authorized only after the nursing care consultant has determined medical eligibility for a specific class of care and the person is determined by the department to be otherwise eligible.

(3) WAC 388-33-115 and 388-33-120 on effective date of payment apply to new and reopened cases eligible for continuing assistance grants. The effective date of a noncontinuing general assistance grant is the authorization date. See WAC 388-84-005 for effective date for FAMCO.

(4) The cost of skilled nursing home care is paid as a medical service cost by post payment to the provider.

(5) Payment for clothing and personal maintenance and necessary incidentals shall be made to the eligible grant recipient as a prepayment. See WAC 388-83-045 for FAMCO.

(6) Income of the applicant or recipient shall be applied according to WAC 388-28-500.

(7) WAC 388-88-095 through 388-88-115 apply to the placement, transfer or discharge of a nursing home patient. [Order 759, § 388-34-055, filed 12/28/72; Regulation 11.131, filed 8/29/66; Regulation 11.131, filed 1/24/64.]

**WAC 388-34-085 Public nursing home—Definition—Grant requirements.** (1) "Public nursing home" means a licensed county (public) nursing home previously called a county infirmary. The need for care in a public nursing home shall be determined and certified by the local office.

(2) The grant requirements for a person in a public nursing home are clothing and personal maintenance and necessary incidentals. [Order 1017, § 388-34-085, filed 4/14/75; Order 907, § 388-34-085, filed 2/14/74; Order 824, § 388-34-085, filed 7/26/73; Order 651, § 388-34-085, filed 2/9/72; Order 553, § 388-34-085, filed 4/1/71; Order 377, § 388-34-085, filed 8/7/69; Order 249, § 388-34-085, filed 11/1/67; Regulation 11.20, filed 7/24/67; Regulation 11.20, filed 2/23/67, 8/29/66, 1/24/64.]

**WAC 388-34-095 Fraternal, religious, or benevolent home.** (1) Fraternal, religious or benevolent homes operate under a variety of plans with respect to the individual. Some offer free care for life, sometimes contingent upon earlier group membership. Others offer free care covering maintenance items only without specific provisions for personal items. Some require payment in advance or transfer of all property holdings; others enter into specific individual contracts. Fraternal organizations usually have only general by-laws concerning the conduct of the person in the home rather than the relationships between the home and the individual.

(2) Fraternal, religious or benevolent homes operating as nursing homes shall be subject to department standards and rules governing nursing homes.

(3) An individual in a fraternal, benevolent or charitable home which customarily provides free, partially free or prepaid care for life, shall be eligible only when and to the extent that he can establish need, including the necessity for him to make payments to the home.

(4) Assistance may be granted to an otherwise eligible individual receiving life care under a contract or agreement which specifically excludes items in the standards only to the extent required to purchase such requirements. The individual must provide evidence substantiating need for the item; for example, a copy of an individual contract with the home; specific citations to governing rules of the organization; or official statements or resolutions of the governing authority or board specifically setting forth the limitations of the individual's right to free care. A written statement signed by the proper authorities of the home requesting and confirming the applicant's obligation to make payment, including the citation of a properly adopted statement or resolution of the governing board setting forth the limitations of the home's obligation to provide care without payment also serves as substantiating financial need.

(5) A person who voluntarily cancels a contract for life care shall not be eligible until he produces satisfactory evidence to prove that the value of the care received equaled the value of the consideration paid for the life care contract. The home's average monthly operating cost per guest, exclusive of capital outlay, depreciation, interest on investments and similar costs as agreed upon by the local office and the home, shall be used to determine whether the care received by the individual equaled the lump sum payment or value of the property he transferred to the home.

(6) See WAC 388-34-045 for costs of requirements to determine financial need of an applicant in a skilled nursing unit of a fraternal or benevolent institution.

(7) See WAC 388-28-260 through 388-28-285 for requirements of a person living in a fraternal or religious home on a board and room basis. [Order 651, § 388-34-095, filed 2/9/72; Order 377, § 388-34-095, filed 8/7/69; Order 249, § 388-34-095, filed 11/1/67; Regulation 11.30, filed 8/29/66; Regulation 11.30, filed 1/24/64.]

**WAC 388-34-110 General hospital—Grants requirements.** (1) The grant requirements in a public or private general hospital shall be clothing, personal maintenance and necessary incidentals.

(2) Deleted

(3) Other institutional costs are authorized and paid as a vendor medical payment. [Order 1017, § 388-34-110, filed 4/14/75; Order 917, § 388-34-110, filed 3/14/74, 3/18/74; Order 824, § 388-34-110, filed 7/26/73; Order 651, § 388-34-110, filed 2/9/72; Order 553, § 388-34-110, filed 4/1/71; Order 377, § 388-34-110, filed 8/7/69; Order 249, § 388-34-110, filed 11/1/67; Regulation 11.41, filed 7/27/67; Regulation 11.41, filed 2/23/67, 8/29/66, 1/24/64.]

**WAC 388-34-120 Tuberculosis hospital—Grant requirements.** (1) General assistance may be granted to a person otherwise eligible living in a tuberculosis hospital.

(2) The grant requirements shall be clothing, personal maintenance and necessary incidentals. [Order 1017, § 388-34-120, filed 4/14/75; Order 917, § 388-34-120, filed 3/14/74, 3/18/74; Order 824, § 388-34-120, filed 7/26/73; Order 651, § 388-34-120, filed 2/9/72; Order 377, § 388-34-120, filed 8/7/69; Order 553, § 388-34-120, filed 4/1/71; Order 249, § 388-34-120, filed 11/1/67; Regulation 11.42, filed 7/27/67, 2/23/67, 1/4/67, 8/29/66, 1/24/64.]

**WAC 388-34-125 Psychiatric hospital (JCAH approved)—Standards for requirements.** (1) The grant requirements in a public or private psychiatric hospital shall be clothing, personal maintenance and necessary incidentals.

(2) The monthly cost standard for clothing and personal maintenance and incidentals shall be as stated in WAC 388-28-136(1) (see WAC 388-95-215(5)). [Order 1044, § 388-34-125, filed 8/14/75; Order 824, § 388-34-125, filed 7/26/73; Order 651, § 388-34-125, filed 2/9/72; Order 553, § 388-34-125, filed 4/1/71;

Order 377, § 388-34-125, filed 8/7/69; Order 249, § 388-34-125, filed 11/1/67.]

**WAC 388-34-140 Maternity services.** Maternity services are purchased for an eligible unmarried pregnant woman as provided in WAC 388-70-110 through 388-70-118. [Order 688, § 388-34-140, filed 6/15/72; Order 434, § 388-34-140, filed 3/31/70; Regulation 11.60, filed 3/31/66; Regulation 11.60, filed 6/24/64, 1/24/64.]

**WAC 388-34-150 Other homes.** (1) The standards for requirements in WAC 388-28-260 through WAC 388-28-285 shall apply to an applicant or recipient in:

(a) A nursing home in another state

(b) A home subject to licensing as a nursing home by the state of Washington but lacking a state department of health license or provisional license

(c) A private nursing home licensed by the Washington department of health which is not classified by the SDPA for purposes of establishing rates of payment to needy persons.

(2) A licensed but unclassified nursing home does not use the SF 8706 to report the admission and dismissal of recipient patients. The division of medical care periodically furnishes the CO with a list of unclassified homes. [Regulation 11.70, filed 8/29/66; Regulation 11.70, filed 1/24/64.]

**WAC 388-34-160 Grant change—Admittance to institution other than nursing home.** (1) When a recipient enters an institution other than a licensed and classified private nursing home the CO may use any payment process which the CO determines to be the most practical under the circumstances. Such payment process may consist of recomputation or suspension of the regular grant, redirection and cancellation of warrants, one-time grant, or any combination of the preceding. Medical costs, in addition to grant need, may also be taken into consideration in determining suspension or termination.

(a) Income is first applied to grant requirements. Income not utilized in meeting grant requirements shall be deemed available to meet medical needs and reported to the MCFO. If it is obvious that income exceeds grant requirements and medical needs, the regular grant is terminated. All nonexempt income must be used to meet grant and/or medical costs.

(b) See WAC 388-33-355 for policy on suspension

See WAC 388-30-095 for policy on newly acquired income

See chapter 388-44 WAC for policy on overpayment.

(2) Supplemental assistance for general maintenance or general subsistence if needed from date of admission to effective date of regular grant change shall be authorized and paid to the recipient as a one-time grant. The funds in the recipient's possession from his regular assistance warrant for the month he enters, and/or any unused income, is considered available to meet need. See WAC 388-33-595(2)(b)(iv).

(3) When an adult recipient (OAA, DA, AB, GAU) enters an institution and there is another adult in the assistance unit, separate grants from the appropriate program shall be established for each adult. Minor children dependent on the adults shall be included in the assistance unit of the adult not in the institution.

When an assistance unit is "split" the effective date of the grant to each assistance unit shall be synchronized to avoid overpayment.

(4) If a recipient in an institution dies before receiving or being able to endorse a warrant already authorized and due him and owes for general maintenance or general subsistence, the previously authorized warrant shall be canceled and the amount due shall be paid as a vendor payment from the category in which the canceled warrant was written. (See Sec. 10.90.) See WAC 388-33-460.

The amount due shall be that portion of the cancelled warrant actually owed by the recipient less any funds the recipient has on deposit with the vendor. [Regulation 11.80, filed 1/24/64.]

**WAC 388-34-165 Grant change—Discharge from institution other than licensed nursing home.** (1) When a recipient leaves an institution other than a licensed and classified nursing home the CO shall certify on SF 5822-M recomputation of grant, reinstatement of suspended grant, or termination.

(2) If recomputation is certified the effective date for increase or decrease in WAC 388-33-140 applies. If supplemental assistance is needed from date of dismissal to effective date of change in regular grant, the amount shall be authorized and paid as a one-time grant. (See WAC 388-33-595(2)(b)(v)).

(3) If reinstatement of grant is authorized see WAC 388-33-120(4) for effective date of grant. [Regulation 11.81, filed 6/14/66; Regulation 11.81, filed 1/24/64.]

**WAC 388-34-180 Notification of grant authorization and change in grant.** (1) An applicant or recipient in a home or facility subject to chapter 388-34 WAC shall be notified in writing when a grant or change in grant is authorized for payment to him or in his behalf. The written notification shall specify:

- (a) The monthly allowance for his requirements, excluding the cost of care in an institution or home,
- (b) His monthly income and resources available to meet his requirements,
- (c) The amount of the monthly grant,
- (d) The date of eligibility for care and payment of assistance begins,
- (e) The amount he is to pay from his income and resources toward the cost of his care in the institution or home,
- (f) The right to a fair hearing.

(2) WAC 388-33-380 is also applicable when the grant to such person is suspended or terminated. [Order 312, § 388-34-180, filed 10/31/68; Regulation 11.90, filed 1/24/64.]

**WAC 388-34-370 Intermediate care—Eligibility conditions.** (1) For definition of "intermediate care facility" (ICF) see WAC 388-34-015(10).

(2) To be eligible for assistance in an intermediate care facility a recipient must:

(a) Require living accommodations and care which as a practical matter can be available to him only through institutional facilities, and

(b) Not have such disability as to require the degree of care and treatment which a hospital or skilled nursing home at the Class I or II level of care is designed to provide, and

(c) Be eligible for a federal aid grant, continuing general assistance, or medical assistance. [Order 701, § 388-34-370, filed 7/27/72; Order 651, § 388-34-370, filed 2/9/72.]

**WAC 388-34-372 Intermediate care—Determination of need for intermediate care.** (1) The determination of a person's need for intermediate care is based on mutual planning with him and his family, as feasible, and on the service worker's assessment of his needs. Any question of the individual's need for care in a nursing care facility must be resolved prior to placement in an intermediate care facility by clearance with the medical consultant or the nursing care consultant. All alternate care which might meet his needs shall have consideration (see WAC 388-16-300 through 388-16-330).

(2) On initial placement medical information shall be secured to establish the presence or extent of physical problems. Such information may be contained in reports from state hospitals, or schools for the retarded, or secured from physicians. To help in determining need for care this medical information is essential for persons having health needs which require visits to the physician, special diets, and/or taking of medications.

(3) The service worker shall consult with the nursing care consultant who has primary responsibility for determining if the person needs skilled nursing care rather than intermediate care. The nurse will serve, when indicated, as a consultant regarding the individual's medical needs, medical information, and medical resources in the community. [Order 701, § 388-34-372, filed 7/27/72; Order 440, § 388-34-372, filed 4/15/70.]

**WAC 388-34-374 Intermediate care—Placement of recipient.** (1) The service worker has responsibility for case management and social services which includes placement and replacement of the recipient.

(2) The need for intermediate care must be agreed to by the recipient. The selection of the facility is the responsibility of the recipient, his relatives, guardian, or attending physician or Christian Science practitioner, with assistance from the service worker in pre-placement planning.

(3) The service worker shall assume responsibility for selecting the home only when the recipient is incapable of making the selection and there is no other responsible person to make the selection in his behalf.

(4) The placement of a recipient in an ICF must have prior approval by the local office. However, in case of the emergency admission of a recipient to a home when

the local office is not open, the local office must be notified by the home the morning of the first local office working day following the emergency admission. The fact of the emergency existed must be established to enable the department to pay for the care from the date of admission.

(5) The operator must send immediate written notification to the local office on form 15PA28F, Notice of Action, of the date of admission of any recipient. Payment for the recipient's care will not be authorized until receipt of this written notification.

(6) The operator must report discharge or death of a resident on form 15PA28F.

(7) Out-of-county placement of a recipient may be made at the request of the recipient or his relatives, or when there is no available intermediate care facility in the county of residence. [Order 440, § 388-34-374, filed 4/15/70.]

**WAC 388-34-375 Intermediate care—Absence for social reasons.** (1) The facility shall notify the local office immediately on the prescribed form when a recipient is to be absent from the facility for more than 24 hours for social reasons.

(2) The facility shall immediately contact the local office for approval of a plan for a recipient to be absent for more than 36 hours for social reasons. Local office approval of an absence of more than 4 days shall be in writing. A state office approved exception to rule shall be secured for absences of more than seven calendar days.

(3) The facility shall not discharge a recipient whose absence for social reasons has been approved by the department. Payment is made for the days of approved absence. [Order 867, § 388-34-375, filed 10/26/73.]

**WAC 388-34-376 Intermediate care—Services to be provided by operator.** The operator of the facility shall provide the following protective and personal care services:

(1) Offer understanding, encouragement and emotional support to the recipient toward taking more responsibility for himself; i.e., keeping self neat and clean, wearing appropriate clothing, coming to meals, keeping room clean and orderly, and other minor tasks.

(2) Activities, including social and recreational activities, involving active participation by the recipient and opportunities for community activities as possible and appropriate, including encouragement and help in seeking, obtaining and keeping employment if the resident is not a recipient of OAA.

(3) Assistance with shopping and correspondence as necessary.

(4) Necessary supervision for the recipient whose mental condition is such that his personal safety requires this.

(5) Opportunity to participate in religious activities of the recipient's own choice.

(6) Under direction of the recipient's physician, guidance and assistance for each recipient in carrying out his personal health program.

(7) Arrangements for services of a physician in the event of an emergency when the recipient's own physician cannot be reached;

(8) Whenever a recipient is sick notifying a physician immediately. If the recipient remains in the facility, the facility shall be responsible for providing temporary care. Care during a temporary illness shall be limited to the type of care ordinarily given in a private home and of a duration not to exceed fourteen days.

(9) Maintaining an individual health record for each resident including

(a) Name, address, and telephone number of relative or responsible person, and the name, address, and telephone number of his physician;

(b) The physician's written instructions and recommendations for care of the recipient;

(c) All symptoms and other indications of illness, injury, or changed behavior brought to the attention of the staff by the recipient, or from other sources, including the date, time, and action taken regarding each. [Order 440, § 388-34-376, filed 4/15/70.]

**WAC 388-34-378 Intermediate care—Grant requirements—Procedures.** (1) Intermediate care is paid from medical care program funds as a vendor post-payment in behalf of the recipient. The individual must be eligible for public assistance or meet the eligibility standards of the medical care program.

(2) Deleted

(3) The grant requirements of a person in an intermediate care facility shall be clothing and personal maintenance and necessary incidentals.

(4) All non exempt income shall be applied first to the requirements specified in subsection (3). Any remaining income is applied to reduce the vendor payment. See WAC 388-22-030(34) for definitions of income.

(5) Payment for care of eligible persons shall be made only for day(s) of care certified by the authorized local office staff. Payment is made for the day of admission, but will not be made for the day of death, discharge or transfer from the intermediate care facility, provided that for any resident admitted there shall be a minimum one-day payment.

(6) Payment for the care of a private resident who becomes eligible for public assistance while in an intermediate care facility shall begin on the date authorized by the department's local office.

(7) An administrator of an intermediate care facility shall not receive or accept money from or on behalf of a recipient in excess of the amount properly payable for the basic cost of intermediate care.

(8) Violation of subsection (7) of this rule will subject the home to termination of the intermediate care agreement. Evidence that an administrator solicited or accepted payment for intermediate care in excess of the amount payable according to the department's payment standards shall be immediately discussed with the administrator by the appropriate local office staff. If the problem cannot be resolved by the local office, the facts should be sent by memorandum to the state office of personal health services. [Order 1017, § 388-34-378, filed 4/14/75; Order 907, § 388-34-378, filed 2/14/74;

Order 862, § 388-34-378, filed 10/11/73; Order 842, § 388-34-378, filed 8/9/73; Order 824, § 388-34-378, filed 7/26/73; Order 732, § 388-34-378, filed 10/27/72; Order 716, § 388-34-378, filed 9/14/72; Order 675, § 388-34-378, filed 5/10/72; Order 651, § 388-34-378, filed 2/9/72; Order 440, § 388-34-378, filed 4/15/70.]

**WAC 388-34-380 Intermediate care—Payment procedures—Operator's responsibility.** (1) It is the operator's responsibility to collect from the recipient that portion of the cost of care the recipient is required to pay. The department's local office shall notify the operator of the amount for which the recipient is responsible.

(2) If it is determined that the recipient no longer needs or can use intermediate care, the service worker is responsible for working out a new living arrangement with the recipient. [Order 440, § 388-34-380, filed 4/15/70.]

**WAC 388-34-384 Intermediate care—Application to provide intermediate care.** (1) A facility wishing to provide intermediate care must have a valid license from the department's health division as a boarding home for the aged (and infirm) or as a nursing home.

(2) To apply for approval of payment for intermediate care the facility shall contact the local office and sign form 10PA23, application for approval for payment—intermediate care facility, in duplicate. The local office service worker will:

- (a) Establish a case record for the facility,
- (b) Visit the premises,
- (c) Discuss the intermediate care facility agreement in detail with the operator,
- (d) Explain the use of form 15PA28F, Notice of Action, and forms 8731 and 8731-A,
- (e) Make sure that the operator will have adequate supervisory staff, not from the resident population, on the premises at all times,

(f) Join with the manager, owner or operator in signing form 10PA22S to testify to the explanation given by the service worker,

(g) If the local office approves the application, have the facility sign two copies of the intermediate care facility agreement and two copies of form 6PA44, authorization for voucher signature,

(h) Note local office approval on form 10PA23 and send both copies with both copies of the signed intermediate care facility agreement, form 6PA44, and form 10PA22S to the state office adult programs unit,

(i) Placement in the facility may begin when all forms for the approved application have been sent to the state office.

(3) If the local office does not approve the application, the service worker explains the reasons fully to the applicant. If the applicant wishes to sign the intermediate care facility agreement he may do so. If he does, two copies of form 6PA44 are also signed. The service worker sends all forms as for an approved application to the state office adult programs unit with a memorandum of explanation. The state office notifies the facility of the decision.

If after an explanation of the reasons a local office will not approve an application, the facility withdraws its application to provide intermediate care, no further action is taken by the local office.

(4) The signature of the assistant secretary on the agreement will constitute department approval. A copy of form 10PA23 and a copy of the agreement are sent to the facility.

(a) An agreement is valid for one year from the date of department signature, except when either the local office or the facility elects a shorter period,

(b) A new agreement must be received in the state office no later than one month after the expiration date of the previous agreement. If not, it will be necessary to hold the vouchers for the facility until the new agreement is received,

(c) A new agreement is required when there is a change in ownership of the facility.

(5) An agreement is terminated when it is revoked by the department or the facility closes.

(a) Revocation shall be considered only when abuses are flagrant and residents are not receiving services as provided in the agreement.

(b) The local office shall send specific current facts supporting revocation to the state office adult program section for action.

(6) The service worker shall visit the facility at appropriate intervals, but no longer than every six months, with or without the nursing care consultant, to review and when necessary, help upgrade the standards of personal and social care. [Order 867, § 388-34-384, filed 10/26/73; Order 627, § 388-34-384, filed 10/24/71; Order 440, § 388-34-384, filed 4/15/70.]

### Chapter 388-37 WAC

#### GENERAL ASSISTANCE—ELIGIBILITY—STANDARDS OF ASSISTANCE—PAYMENT

##### WAC

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**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 388-37-034 Continuing general assistance—Local office review of incapacity. [Order 943, § 388-37-034, filed 6/28/74; Order 904, § 388-37-034, filed 1/31/74.] Repealed by Order 1102, filed 3/2/76.

**WAC 388-37-010 General assistance—Designations—Exclusions.** (1) General assistance is a state financed program which provides for the needs of some persons who are not eligible for or are not receiving a federal aid grant.

(2) General assistance is divided into two major groupings: Noncontinuing assistance (GA-N) and continuing assistance (GAU).

(3) Noncontinuing assistance is intended to assist an otherwise eligible person(s) whose need is expected to be of short duration or who does not immediately qualify for continuing general assistance or a federal aid money grant.

(4) Continuing assistance is intended to assist certain specified groups of people whose need is expected to continue for more than a 30-day period.

(5) A person referred to and accepted by the division of vocational rehabilitation services under an approved plan including maintenance payments is not eligible for general assistance.

(6) General assistance cannot be granted to a person eligible for or receiving AFDC or to a person eligible for or receiving supplemental security income except that

(a) An applicant who appears to be eligible for SSI may receive general assistance payments until the date of receipt of the initial SSI payment provided that:

- (i) the applicant applies;
- (ii) the applicant assigns the initial SSI payment to DSHS up to the amount of the GA-U provided to the applicant pending approval of the SSI application;
- (iii) the applicant meets all other general assistance eligibility requirements.

(b) If the amount of the initial SSI payment recovered by DSHS under subdivision (6)(a) does not meet the amount paid as GA-U, the balance must be treated as an overpayment.

(i) If the SSI benefit is less than the GAU payment standard because the SSI is based on a different living arrangement than that authorized under the GAU program, the difference will not be considered an overpayment, provided the applicant has appealed the SSI determination and lost the final appeal.

(7) General assistance cannot be granted to a recipient of supplemental security income when he is subject to any sanction for failure to comply with SSI eligibility requirements. [Order 1214, § 388-37-010, filed

6/23/77; Order 1102, § 388-37-010, filed 3/2/76; Order 939, § 388-37-010, filed 5/23/74; Order 904, § 388-37-010, filed 1/31/74; Order 841, § 388-37-010, filed 8/9/73.]

**WAC 388-37-020 General assistance—Eligibility conditions—General.** (1) An applicant or recipient shall be a resident of the state of Washington as defined in WAC 388-26-055 and be living in an identifiable residence within the local office area, except that,

(a) Noncontinuing general assistance may be granted to a person who has no intent to reside in the state of Washington if he is otherwise eligible for noncontinuing general assistance and if denial of assistance to him would cause undue hardship. Assistance may be extended for a period not to exceed ninety days during a biennium. Receipt of assistance for periods of less than ninety days shall be accumulative during the biennium.

(b) The applicant's refusal to return to his place of residence shall not be grounds for denying assistance.

(2) An applicant or recipient shall not have transferred property contrary to law or rules as specified in WAC 388-26-200 through 388-26-250.

(3) If an individual is living in an institution, WAC 388-34-010 through 388-34-020 also apply in eligibility determination.

(4) There are differences in financial need determination, property limits and requirements within the general assistance program. Continuing general assistance follows financial need determination as provided in provisions of chapter 388-28 WAC, except for the earned income exemption specified in WAC 388-37-025. Specific eligibility conditions required for noncontinuing general assistance are defined in subsequent sections of this chapter. [Order 1251, § 388-37-020, filed 11/10/77; Order 841, § 388-37-020, filed 8/9/73.]

**WAC 388-37-025 Earned income exemption.** The first eighty-five dollars plus one-half the remainder of total gross monthly earned income shall be exempt in determining eligibility for and the amount of assistance for recipients of continuing general assistance as defined in WAC 388-37-030. [Order 1251, § 388-37-025, filed 11/10/77.]

**WAC 388-37-030 Continuing general assistance—Eligible persons.** When other eligibility has been established, continuing general assistance shall be granted to

(1) Deleted

(2) Families ineligible for AFDC-E solely because the father does not meet the work quarters requirements and is regularly attending a vocational or technical training course approved by the ESSO - see WAC 388-24-135 and 388-57-028. WIN registration does not apply.

(a) All training plans for persons receiving continuing general assistance under these circumstances shall be approved or disapproved according to the criteria in WAC 388-57-028(4). The ESSO shall not authorize or continue assistance to such an applicant or recipient when a training plan has been disapproved.

(3) A person who at the time of attaining the age of 18 years is a recipient of public assistance and attending a state approved high school or vocational or technical institution.

(a) Assistance is continued while the person (if otherwise eligible) continually attends school on a full-time basis. Assistance is continued through the end of the school year immediately following the person's 18th birthday.

(b) If in the opinion of the ESSO administrator one additional year of schooling will lead to completion of a secondary education, assistance is continued for one additional school year.

(4) Unemployable persons. As used in this section unemployable means a person who is 65 years of age or older or a person who is physically or mentally incapacitated by a condition expected to continue for at least 30 days from date of application. Unemployability refers to the individual's capacity to earn income by employment. It does not refer to the availability or lack of job opportunities. Eligible individuals are

(a) An unemployable single adult,

(b) A married couple if both persons are unemployable.

(c) The unemployable spouse in the case of a married couple when only one person is employable. The income and resources of the employable spouse shall be considered as described in WAC 388-28-500(2)(a) and (b).

(5) The spouse and children of a 65 year old beneficiary of supplemental security income when deprivation due to incapacity or unemployment cannot be established. [Order 1214, § 388-37-030, filed 6/23/77; Order 1189, § 388-37-030, filed 2/18/77; Order 1173, § 388-37-030, filed 11/24/76; Order 1102, § 388-37-030, filed 3/2/76; Order 1083, § 388-37-030, filed 12/24/75; Order 976, § 388-37-030, filed 10/28/74; Order 973, § 388-37-030, filed 9/26/74; Order 939, § 388-37-030, filed 5/23/74; Order 904, § 388-37-030, filed 1/31/74; Order 841, § 388-37-030, filed 8/9/73.]

**WAC 388-37-031 Continuing general assistance—Payment to employable spouse.** When it has been verified by a physician that it is medically necessary for an employable spouse to be present in the home to care for the incapacitated spouse payment shall be made to the employable spouse as specified in WAC 388-16-430(3) and WAC 388-16-435(2). [Order 1102, § 388-37-031, filed 3/2/76.]

**WAC 388-37-032 Continuing general assistance—Determination of incapacity.** (1) Eligibility due to incapacity shall be determined by an ESSO incapacity review team in accordance with the criteria in WAC 388-37-035.

(2) The incapacity review team shall

(a) Consider medical and other related evidence of the incapacitating condition and make a decision confirming or denying the existence of eligibility due to incapacity within thirty days of the date of application, except in circumstances beyond the control of the agency such as failure or delay on the part of the applicant, the examining physician or other source of documentation.

(b) Request additional information when necessary.

(c) Determine probable duration of incapacity. The probable duration shall be related to the prognosis for the condition as predicted by the medical evidence but shall not exceed twelve months without a redetermination of incapacity.

(3) Eligibility cannot be established if an applicant or recipient fails to cooperate in obtaining information documenting incapacity.

(4) Cost of necessary medical reports to determine incapacity shall be paid by the department. Payment for such reports shall not be made to DSHS agencies. [Order 1145, § 388-37-032, filed 8/26/76; Order 1102, § 388-37-032, filed 3/2/76; Order 1046, § 388-37-032, filed 8/14/75; Order 973, § 388-37-032, filed 9/26/74; Order 904, § 388-37-032, filed 1/31/74.]

**WAC 388-37-035 Incapacity.** (1) The term "incapacity" refers to the existence of a physiological, emotional and/or mental impairment which renders the person incapable of gainful employment.

(a) Such incapacity must be verified by medical evidence.

(b) The person must be substantially prevented by reason of the impairment from engaging in a useful occupation. Reasons for unemployment other than incapacity, such as individual employer preferences, business and economic conditions, social handicaps, etc. are not factors to be considered in determining his inability to obtain and continue in employment.

(2) The source of evidence for physiological incapacity will be a written report from a physician or chiropractor; for a mental and/or emotional incapacity, the source may be a report from a psychiatrist or clinical psychologist. Medical evidence may be obtained by other DSHS institutions and agencies from which the individual is receiving or has received services. Such reports must include a diagnosis and prognosis for the incapacitating condition and the effect of the condition on the individual's ability to function.

(3) The determination of incapacity will be made on the facts of each case. This requires evaluation of the severity of the impairment and its effect on the individual, and consideration of the individual's abilities so that it can be determined whether there remains a capacity to engage in a useful occupation.

(4) Incapacity due to mental or emotional disorders shall be determined on the basis of actual and specific impairment of faculties necessary for the person to be able to engage in gainful employment. The fact that an individual may be receiving treatment for a mental health problem is not in itself evidence that incapacity exists.

(a) Such incapacity will be determined on the basis of evidence that the individual

(i) Is unable to exercise judgment and make decisions necessary to obtain and maintain employment.

(ii) Is unable to sustain an adequate attention span.

(iii) Manifests bizarre or inappropriate behavior patterns beyond his capability to control.

(iv) Does not have the degree of physical and motor control required to sustain employment.



(v) Does not have perception and memory to the degree necessary to obtain and sustain employment.

(vi) Is unable to follow directions or to learn to the degree necessary to obtain and sustain employment.

(vii) Is under medication which impairs functioning.

(viii) Any one or a combination of the conditions in items (i) through (vii) may be sufficient to establish incapacity.

(5) Incapacity will be considered to be established without an incapacity review team decision for applicants for and recipients of services in a congregate care facility when the person

(a) Deleted.

(b) has been determined to be eligible for any benefits (including FAMCO) based on social security administration disability criteria or veterans benefits based on disability of 50% or more.

(c) is eligible for services from the bureau of developmental disabilities.

(d) is being released from a state or community psychiatric hospital.

(i) incapacity following hospitalization for mental health reasons will be considered to be established for only sixty days; assistance shall not be continued beyond the initial sixty days without an incapacity review team decision.

(6) Incapacity due to alcoholism will be considered to be established when an individual is accepted into either intensive or long-term residential treatment at an alcoholism treatment center.

(7) Incapacity due to abuse of drugs other than alcohol will be considered to be established for a designated period when an individual is accepted into a certified residential drug treatment program, or a certified methadone (or approved substitute) maintenance or certified detoxification program.

(a) In accordance with the above criteria, incapacity will be considered to be established for the following maximum periods of time:

(i) detoxification—30 days

(ii) maintenance—60 days

(iii) residential treatment—60 days

(b) assistance shall not be continued beyond the initial period of time described in subdivision (7)(a) without an incapacity review team decision.

(8) If the person has not been referred to the ESSO by an alcoholism or certified drug treatment program incapacity will be determined by evidence that

(a) Pathological or demonstrable organic damage has resulted from chronic alcoholism or drug abuse, or

(b) The individual, as a result of the addiction, has his judgment so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment and constitutes a danger to himself, to any other person, or to property.

(9) Individuals who are found to be incapacitated due to alcoholism or drug abuse will be required to accept referral to a community alcoholism center or certified drug treatment program for evaluation and recommendation related to treatment.

(a) An individual who refuses to accept and follow through on available treatment when such treatment is recommended shall not be eligible.

(10) The use of drugs or alcohol of itself is not evidence that an incapacitating condition exists. [Order 1251, § 388-37-035, filed 11/10/77; Order 1214, § 388-37-035, filed 6/23/77; Order 1173, § 388-37-035, filed 11/24/76; Order 1145, § 388-37-035, filed 8/26/76; Order 1109, § 388-37-035, filed 4/15/76; Order 1102, § 388-37-035, filed 3/2/76; Order 973, § 388-37-035, filed 9/26/74; Order 904, § 388-37-035, filed 1/31/74.]

**WAC 388-37-037 Continuing general assistance—Refusal to accept available and recommended medical treatment.**

(1) A continuing general assistance applicant or recipient who refuses without good cause to accept available medical treatment, which can reasonably be expected to render him able to work shall be ineligible.

(2) "Available medical treatment" shall mean and include medical, surgical, or mental health services, or any combination thereof.

(3) "Reasonably be expected to render him able to work" shall mean that in the opinion of the medical consultant, the recommended treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner.

(4) For the purposes of this section, an applicant or recipient has good cause to refuse recommended medical treatment when, according to the best objective judgment of the ESSO review team, confirmed by the ESSO administrator and the medical consultant, such refusal is based upon one or more of the following conditions:

(a) The individual is genuinely fearful of undergoing recommended treatment. Such fear may appear to be unrealistic or irrational; however, fear exists in such a degree that treatment would be adversely affected.

(b) The individual could lose a faculty, or the remaining use of faculty he now has, and refuses to accept the risk;

(c) Because of his definitely stated religious scruples, the individual will not accept recommended medical treatment. [Order 1102, § 388-37-037, filed 3/2/76; Order 904, § 388-37-037, filed 1/31/74.]

**WAC 388-37-040 Continuing general assistance—Standards for requirements—Authorization.**

(1) The rules and procedures for payment of federal aid grants shall apply to continuing general assistance except that vendor payments may be made when payment by warrant is not possible or practical.

(2) When incapacity is established a continuing grant shall be authorized to continue for the probable duration of the incapacity. The recipient shall be notified of the termination date at the time the grant is opened.

(a) A continuing grant shall not be authorized until incapacity is established by the review team.

(3) Continuing assistance shall not be authorized following the termination date specified in subsection (2) until continuing incapacity has been redetermined by the

review team. [Order 1102, § 388-37-040, filed 3/2/76; Order 841, § 388-37-040, filed 8/9/73.]

**WAC 388-37-050 Continuing general assistance—Redetermination of eligibility.** (1) Continuing general assistance recipients shall have their continued financial eligibility for such assistance redetermined at least once every six months of continuous receipt of assistance.

(2) When an unemployable recipient of general assistance becomes employable, his eligibility ceases.

(3) Whenever a general assistance recipient becomes eligible for AFDC or SSI benefits, he becomes ineligible for continuing general assistance.

(4) Acceptance of available medical treatment. WAC 388-37-037 applies to a recipient as well as to an applicant.

(5) Recipients of continuing general assistance shall be screened to determine appropriateness of referral for vocational rehabilitation services and SSI eligibility determination. A recipient who has been referred and refuses without good cause to utilize such services shall be ineligible. [Order 1102, § 388-37-050, filed 3/2/76; Order 943, § 388-37-050, filed 6/28/74; Order 904, § 388-37-050, filed 1/31/74; Order 841, § 388-37-050, filed 8/9/73.]

**WAC 388-37-060 Congregate care—Alcoholism treatment.** (1) For persons eligible for congregate care see WAC 388-16-336.

(2) Alcoholism treatment is provided to the detoxified alcoholic in congregate care facilities for which the treatment program has been approved by the state. Treatment may be:

(a) Intensive inpatient treatment services for thirty days or less

(b) Long term services in a nonintensive program in a residential setting for one hundred and eighty days. This program may be extended in individual cases.

(c) Rehabilitative services in a half-way house setting for up to ninety days.

(3) An individual's need for alcoholism treatment in either a privately or publicly operated facility shall be determined by

(a) Evaluation and recommendation of a state approved community alcoholism center, or

(b) a court order

(4) Persons receiving services in an intensive alcoholism treatment program shall not be required to participate in the cost of care. Following the month of admission income of individuals receiving long term or rehabilitative services shall be considered according to the rules applicable to the program under which the benefits are received. [Order 1173, § 388-37-060, filed 11/24/76.]

**WAC 388-37-210 Noncontinuing general assistance—Eligible persons.** When other eligibility has been established, noncontinuing general assistance shall be granted to

(1) A single person who is 18 years of age or older not eligible for continuing general assistance,

(2) Husband and wife not eligible for continuing general assistance,

(3) Families with both parents, or a single parent, living in the home with minor dependent child(ren), including an unborn child, who are not eligible for AFDC or continuing general assistance,

(4) A minor child living outside the parental home and enrolled in high school or a vocational training plan approved by the local office. [\*Order 1085, § 388-37-210, filed 1/15/76; Emergency Order 1073, § 388-37-210, filed 12/12/75 (Emergency Order 1073 repealed WAC 388-37-210, which was then readopted, as amended, by Order 1085, filed 1/15/76); Order 969, § 388-37-210, filed 9/13/74; Order 939, § 388-37-210, filed 5/23/74; Order 904, § 388-37-210, filed 1/31/74; Order 841, § 388-37-210, filed 8/9/73.]

**\*Reviser's note:** The statutory authority for the amendment to WAC 388-37-210 in Department of Social and Health Services Order 1126, filed 6/23/76, was declared unconstitutional and void by the Supreme Court in *Flanders v. Morris* 88 Wn.2d 181 (1977). WAC 388-37-210 is set forth above as it existed prior to Order 1126.

**WAC 388-37-215 Noncontinuing general assistance—Specific eligibility conditions.** To be eligible for noncontinuing general assistance a person must, in addition to meeting all general conditions of eligibility.

(1) Not be eligible for continuing general assistance or foster care, or if eligible for foster care such arrangement is not feasible.

(2) Be unemployed; a person is considered to be unemployed who is employed less than 100 hours a month;

(3) Be registered for employment at WSES and accept available employment unless

(a) Ill or incapacitated,

(b) Needed in the home to care for an ill or incapacitated spouse or a dependent child,

(c) The caretaker parent of a preschool child,

(d) A minor child enrolled in high school or vocational training;

(4) Be in financial need as defined in WAC 388-37-220 through WAC 388-37-240;

(5) Have applied for unemployment compensation benefits if potentially eligible;

(6) Not be receiving unemployment benefits;

(7) Not have refused a bonafide offer of employment or have voluntarily left a job within 30 days prior to the date of application. Such refusal shall result in a 30-day period of ineligibility. For an applicant the period of ineligibility shall begin on the date the ESSO receives the information. For a recipient the period of ineligibility shall begin on the date the current certification ends. [Order 1173, § 388-37-215, filed 11/24/76; Order 973, § 388-37-215, filed 9/26/74; Order 841, § 388-37-215, filed 8/9/73.]

**WAC 388-37-220 Noncontinuing general assistance—Requirements.** The standards for basic monthly requirements for a noncontinuing general assistance applicant or recipient shall be the same as the standards for AFDC and GAU as specified in chapter 388-28 WAC. [Order 1242, § 388-37-220, filed 9/23/77; Order 1145, § 388-37-220, filed 8/26/76; Order 1040, §

388-37-220, filed 8/7/75; Order 904, § 388-37-220, filed 1/31/74; Order 841, § 388-37-220, filed 8/9/73.]

**WAC 388-37-230 Noncontinuing general assistance—Exempt and nonexempt resources and income.**

(1) An applicant for or recipient of noncontinuing general assistance shall be eligible for public assistance only when he has applied for and/or utilized any and all types of private nonexempt or public resources (other than general assistance) to the extent available.

(2) Any type of private or public resource shall be utilized to the full extent when available to meet need including any available employment, customary credit, contributions, donations, benefits, entitlements, compensation, etc., available from private welfare agencies, private organizations, firms or individuals, or public agencies other than the local office.

(3) The following types of property shall be considered non-exempt:

- (a) Personal property
  - (i) Cash on hand or deposit,
  - (ii) The quick sale value of securities, mortgages and sales contracts,
  - (iii) The loan value on life insurance,
  - (iv) The equity in an automobile, boat, truck or any other type of conveyance to the extent it can be used to secure a loan,
  - (v) The quick sale value of all other personal property except
    - (A) Used and useful household furnishings,
    - (B) Used and useful personal effects,
    - (C) Used and useful clothing,
    - (D) Tools and equipment used and useful in the individual's occupation or trade,
    - (E) Livestock, the products of which are consumed by the applicant and his dependents.

(b) Real property  
The quick sale value of any real property other than the home. The home is exempt.

(c) Net recurring or nonrecurring income

(i) The determination whether a resource is at hand to meet need shall be governed by WAC 388-28-400, 388-28-450 and 388-28-455. Seven days shall ordinarily be considered a reasonable period to convert a resource in the possession and control of an applicant into money or its equivalent. An applicant furnishing satisfactory evidence that a resource cannot be converted into cash in seven days shall be granted a reasonable extension of the time limit by the local office and made known to the applicant.

(ii) WAC 388-28-420 shall apply in determining whether real property is used as a home.

(iii) WAC 388-28-360 through 388-28-380 shall apply in evaluating community, separate and joint property as an available resource. [Order 841, § 388-37-230, filed 8/9/73.]

**WAC 388-37-235 Noncontinuing general assistance—Computing income.** (1) WAC 388-28-475 through 388-28-560, 388-28-580 and 388-28-300 through 388-28-390 shall apply in computing income.

(2) All net income available during the payment period shall be considered appreciable and be taken into account in determining need. [Order 841, § 388-37-235, filed 8/9/73.]

**WAC 388-37-240 Noncontinuing general assistance—Utilization of resources and income.**

Resources and income which become available to a noncontinuing general assistance recipient shall be evaluated according to WAC 388-30-065 through 388-30-100 to determine continuing eligibility. If the resource and other income are equal to or more than the recipient's requirements determined according to WAC 388-37-415, he shall be ineligible for further assistance. [Order 841, § 388-37-240, filed 8/9/73.]

**WAC 388-37-245 Noncontinuing general assistance—Effective date of eligibility.**

The effective date of a new noncontinuing general assistance grant shall be the authorization date. The effective date of a reauthorized noncontinuing grant may, however, be subsequent to the date of reauthorization. [Order 841, § 388-37-245, filed 8/9/73.]

**WAC 388-37-250 Noncontinuing general assistance—Grant period.**

The grant (payment) period authorized shall ordinarily not exceed one-half month. A period up to a month may be authorized when it appears that a change in the recipient's circumstances is not apt to occur during the period covered by the authorization. Eligibility shall be redetermined prior to the issuance of each grant by use of an eligibility review form. Reapplication by use of application form is required if more than one month has elapsed since receipt of last assistance grant. If less than a month has elapsed since receipt of the last grant, review only is required. [Order 841, § 388-37-250, filed 8/9/73.]

**WAC 388-37-255 Noncontinuing general assistance—Authorization and reauthorization of grant.**

(1) An authorization or reauthorization of noncontinuing general assistance is self-limiting. It expires at the end of the period of time covered by one assistance plan period. Reauthorization is required to make each additional noncontinuing grant. If a recipient receives no assistance for thirty days the case is closed and reopening requires a new authorization.

(2) Noncontinuing general assistance granted to an applicant for continuing assistance shall cover only periods prior to the date of authorization of continuing assistance. Any amount of noncontinuing general assistance granted past the authorization date of continuing assistance shall be deducted from continuing assistance requirements. [Order 841, § 388-37-255, filed 8/9/73.]

**WAC 388-37-260 Noncontinuing general assistance—Notification to recipient.**

The local office shall give an applicant for or recipient of noncontinuing general assistance written decision of the action taken on his application and any change in grant. [Order 841, § 388-37-260, filed 8/9/73.]

**WAC 388-37-265 Noncontinuing general assistance—Payment of grant.** (1) Noncontinuing grants shall be paid in cash to the recipient whenever possible.

(2) Cash payment is made by public assistance emergency assistance fund warrant and shall be limited to the requirements specified in WAC 388-37-220. [Order 841, § 388-37-265, filed 8/9/73.]

**WAC 388-37-270 Noncontinuing general assistance—Vendor payment.** (1) When cash payment is not a feasible form of payment for a recipient, goods and services are purchased by vendor payment.

(2) When a general assistance vendor payment is made by disbursing order, the recipient shall designate the vendor(s) to be used, and the way he wants the total amount for which he is eligible distributed among the items requested.

(3) The local office, however, may designate the vendor(s), and standard item amounts, as an exception to subsection (2), when a recipient demonstrates his inability to use a disbursing order for the purpose intended. [Order 841, § 388-37-270, filed 8/9/73.]

- 388-38-080 6/28/74; Order 537, § 388-38-070, filed 3/31/71, effective 5/1/71; Regulation 13.25, filed 1/24/64.] Repealed by Order 1195, filed 3/3/77.
- 388-38-085 Person in state mental hospital or institution for mentally retarded. [Order 537, § 388-38-080, filed 3/31/71, effective 5/1/71; Regulation 13.26, filed 1/24/64.] Repealed by Order 1165, filed 10/27/76.
- 388-38-090 Applicant requiring placement in licensed and classified nursing home or at Oakhurst Infirmary. [Regulation 13.261, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.
- 388-38-100 Applicant requiring other type of placement. [Regulation 13.262, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.
- 388-38-100 Disposal of application. [This reference only section is being repealed inasmuch as § 388-38-100 was deleted from Order 537, filed 3/31/71, effective 5/1/71.]
- 388-38-140 Notification of decision. [Regulation 13.40, filed 1/24/64.] Repealed by Order 313, filed 10/31/68.
- 388-38-160 Withdrawn application. [Regulation 13.42, filed 1/24/64.] Repealed by Order 313, filed 10/31/68.
- 388-38-170 Denial of application. [Regulation 13.43, filed 1/24/64.] Repealed by Order 313, filed 10/31/68.
- 388-38-180 Intercounty transfer of application. [Regulation 13.50, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.

### Chapter 388-38 WAC APPLICATION

<b>WAC</b>	
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388-38-290	Action on review.
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#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-38-020	Inquiry. [Regulation 13.10, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.
388-38-035	Application registration. [Regulation 13.21, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.
388-38-060	Application—Prior to specified events. [Order 537, § 388-38-060, filed 3/31/71, effective 5/1/71; Regulation 13.24, filed 1/24/64.] Repealed by Order 973, filed 9/26/74.
388-38-070	Person being paroled or released from state correctional institution. [Order 943, § 388-38-070, filed

**WAC 388-38-010 Definitions.** (1) "Application" means a request for financial assistance made by a person in his own behalf or in behalf of another person.

(a) An application for financial assistance has been made when the individual expresses in writing to the ESSO his desire to receive assistance.

(b) An application for medical assistance has been made when the individual expresses verbally or in writing his desire to receive assistance or to have his eligibility considered.

(2) "Inquiry" means a request for information about the department or its services or about eligibility requirements for assistance. Such inquiry may be followed by an application.

(3) "Statements in support of the application" means specifically form 14PA01 and any other forms required under department regulations which apply to the particular situation. [Order 1101, § 388-38-010, filed 2/25/76; Order 537, § 388-38-010, filed 3/31/71, effective 5/1/71; Regulation 13.01, filed 7/27/67; Regulation 13.01, filed 1/24/64.]

**WAC 388-38-030 Application—Administrative standards.** (1) An application shall be accepted from anyone who wishes to apply and shall be acted upon promptly.

(2) Each applicant shall be treated with dignity and courtesy, shall be given sufficient opportunity to make his pertinent needs known to the department, and to learn what the department can or cannot do for him.

(3) Each applicant shall be fully informed of his legal rights and responsibilities in connection with public assistance.

(4) Eligibility or ineligibility shall be determined on a factual and objective basis in accordance with the rules and procedures of the department.

(5) Pertinent facts shall be recorded about each application so that records can be audited to determine whether department policies have been followed, continuity of service can be carried out, case planning can be

achieved, and services needed and given can be ascertained.

(6) The decision on applications is definite and conclusive and is made known to the applicant together with the reasons for the decision. (See WAC 388-38-150 and 388-38-172.)

(7) Each applicant shall be given a pamphlet entitled "Fair Hearings Are For You". Each applicant shall receive a brief explanation of rights and procedures in regard to fair hearings.

(8) Each applicant shall be given a written acknowledgement of receipt of the application by the Department at the time of making application. [Order 605, § 388-38-030, filed 9/22/71; Order 537, § 388-38-030, filed 3/31/71, effective 5/1/71; Regulation 13.20, filed 1/24/64.]

**WAC 388-38-040 Record and supporting documents.** (1) Form 14PA01 shall be used as the applicant's written statement of his application for all public assistance grant categories. This does not apply to a grant being reinstated.

(2) An application shall contain a written declaration that is made under penalties of perjury and such declaration shall be in lieu of any oath otherwise required, and each applicant shall be so informed at the time of the signing.

(3) Ten calendar days shall be allowed for the applicant to complete and submit forms to the local office. If illness or other unforeseen circumstances prevent the individual from completing his application within ten days the local office may extend the period. Failure to submit the required information within the ten days or the extended period will result in a denial of assistance because eligibility cannot be determined.

(4) An application may be made by

(a) The person making the request in his own behalf or for his dependent,

(b) The legal guardian or person otherwise legally eligible to make application on behalf of minors or incompetent persons,

(c) Any other person acting in behalf of the applicant when the individual cannot make application under one of the preceding methods. Such person shall indicate on form 14PA01 the reason for initiating the application.

(5) Application for a grant must always be made before investigation is undertaken. Application is made in person at the local office but may be taken in the applicant's home when necessary.

(6) All forms involving an application shall be signed by the applicant and his (her) spouse if living together. The foregoing applies irrespective of whether the spouse is included in the application as a dependent.

(7) A signature by mark requires two witnesses. The signatures of witnesses shall appear on the form and be identified as witnesses. [Order 943, § 388-38-040, filed 6/28/74; Order 537, § 388-38-040, filed 3/31/71, effective 5/1/71; Regulation 13.22, filed 1/24/64.]

**WAC 388-38-050 Alteration or addition to forms.** A change may be made on a signed application for assistance only when the incorrect entry is stricken and the

corrected entry initialed by the applicant and dated. An addition shall be also initialed by the applicant. [Order 978, § 388-38-050, filed 10/28/74; Repealed by Order 943, filed 6/28/74; Order 537, § 388-38-050, filed 3/31/71, effective 5/1/71; Regulation 13.23, filed 1/24/64.]

**WAC 388-38-08501 Trial visit.** (1) Persons in state institutions other than adult correctional institutions, are provided an opportunity to visit outside the institution as part of their treatment program. When a person needs public assistance in order to make a trial visit, the rules in this section apply.

(2) An application for assistance shall be completed and eligibility shall be determined before a trial visit is begun.

(3) A trial visit shall be limited to a maximum of 30 days. An extension of time beyond 30 days removes the person from trial visit status. [Order 873, § 388-38-085 codified § 388-38-08501, filed 11/16/73.]

**WAC 388-38-110 Time limit for disposal.** Each application shall be acted upon as quickly as possible, and within thirty days unless exceptional circumstances in an individual case require a longer period of time. Although no type of application will necessarily require more than thirty days, it may not be possible to reach a decision in certain circumstances such as:

(1) Cases in which eligibility decisions depend on medical reports and there is delay in obtaining such reports from the examining doctor or in securing medical information;

(2) Cases in which eligibility decisions depend upon state office action and a delayed decision is caused by the state office not having sufficient or adequate information upon which to make a decision;

(3) Cases in which eligibility depends upon extensive property appraisals;

(4) Cases in which determination of eligibility requires out-of-state or intercity contacts and where the delaying factor is such correspondence. [Order 1165, § 388-38-110, filed 10/27/76; Order 943, § 388-38-110, filed 6/28/74; Order 537, § 388-38-110, filed 3/31/71, effective 5/1/71; Regulation 12.31, filed 1/24/64.]

**WAC 388-38-120 Disposal actions.** (1) An application for financial assistance shall be disposed of by

(a) Approval, that is, determination that the applicant is eligible for assistance;

(b) Denial, that is, determination that the applicant is ineligible for assistance; or that eligibility could not be determined due to lack of information or verification.

(c) Withdrawal, that is,

(i) Applicant during or following interview with ESSO staff voluntarily requests no further consideration be given to his application. Preferably the applicant should write "withdrawn" on the application form and sign his name. If the applicant verbally requests withdrawal a notation shall be made on the application form and in the case record that the application has been withdrawn at applicant's request; and that a notice has been sent to the applicant confirming his notification to

the agency that he does not desire to continue his application.

(ii) Applicant for medical assistance fails to file a written application on forms prescribed by the department.

(iii) Applicant fails to report for scheduled interview;

(iv) Death occurred before determination of eligibility was completed. [Order 1241, § 388-38-120, filed 9/23/77; Order 1101, § 388-38-120, filed 2/25/76; Order 943, § 388-38-120, filed 6/28/74; Order 537, § 388-38-120, filed 3/31/71, effective 5/1/71; Order 354, § 388-38-120, filed 5/29/69; Order 313, § 388-38-120, filed 10/31/68; Regulation 13.32, filed 1/24/64.]

**WAC 388-38-150 Notification of decision—Assistance authorized for applicant.** An applicant eligible for continuing assistance shall be notified of the LO decision to authorize a grant according to WAC 388-33-125 when he is in his own home or boarding and rooming, or WAC 388-34-180 when he is living in an institution. [Order 537, § 388-38-150, filed 3/31/71, effective 5/1/71; Order 313, § 388-38-150, filed 10/31/68; Regulation 13.41, filed 1/24/64.]

**WAC 388-38-172 Denial or withdrawal.** (1) A letter shall be written by the LO to the individual whose application for continuing assistance is denied or withdrawn. The following points must be covered in the letter:

(a) The basis for the decision including the gist of the applicable law or policy and a summary of the pertinent facts relating to the decision.

(b) The date of the decision.

(c) The right to a fair hearing.

(2) The letter need not include notice of right to a fair hearing when the applicant gives written notice of withdrawal including a statement to that effect on his application. [Order 537, § 388-38-172, filed 3/31/71, effective 5/1/71; Order 313, § 388-38-172, filed 10/31/68.]

**WAC 388-38-200 Verifying eligibility and reeligibility.** (1) All facts necessary to determine the eligibility or ineligibility of the applicant or recipient shall be established in accordance with the methods prescribed in this section. The practices described in this section apply not only to the initial application for assistance or service but also to reapplication, reinstatement, and redetermination of eligibility.

(2) In taking applications, determining eligibility, and in administering the assistance programs, the rights of individuals under the U.S. Constitution, the Social Security Act, Title VI of the Civil Rights Act of 1964, and all other relevant provisions of federal and state law shall be respected. This includes the avoidance of practices which violate the individual's privacy or subject him to harassment.

(3) Each determination of eligibility shall include at least one face-to-face interview with the applicant, or if direct contact with him is impractical with someone acting responsibly for him.

(4) The applicant shall provide a statement of his circumstances which shall be accepted as evidence of eligibility unless

(a) The information is incomplete, inconsistent or unclear, in which case the local office shall obtain such verification of eligibility factors as is deemed necessary to support an accurate decision of eligibility, or

(b) The local or regional administrator has determined that verification of certain specific eligibility factors is necessary to assure the accuracy of eligibility decision, or

(c) The department has determined that partial or complete verification is needed as a general procedure to assure that assistance is provided in accordance with laws and regulations, and has issued an administrative directive to that effect.

(5) The applicant's statement of his circumstances is the first source of information in determining eligibility. He shall be fully informed about the corroborating documentation needed to verify eligibility and his obligation to secure this himself whenever reasonably possible.

(6) When the applicant is unable to provide verification which is necessary to establish eligibility, the local office shall obtain substantiating evidence from other sources. This is done with the knowledge and consent of the applicant except when public records are used for this purpose. (See WAC 388-48-010 regarding confidentiality.) The applicant has the right to withdraw his application rather than to give his consent.

(a) Collateral contacts may be made without the applicant's consent when the applicant is not competent to provide the necessary information or to give informed consent.

(i) The case record must specify the reason special procedures were needed and describe them.

(ii) Such special procedures must be consistent with subsection (2).

(b) Verification of pertinent information relating to overpayments and suspected fraud shall be obtained as specified in WAC 388-44-020 and 388-44-115.

(7) Verifications of eligibility from the applicant and from other sources shall be limited to only those which are necessary to assure that expenditures made will be legal.

(8) The investigation process shall be terminated at the point when information requiring verification has been substantiated.

(9) If documentary evidence for verification of the applicant's statements as to an eligibility factor does not exist or cannot be obtained, the local office shall accept the evidence provided by statements which are attested to under penalty of perjury from persons other than the applicant.

(10) Each decision that an applicant is eligible for or ineligible for assistance or other services shall be supported by information in the case record showing that each eligibility requirement is met or that one or more is not met. [Order 1241, § 388-38-200, filed 9/23/77.]

**WAC 388-38-220 Verification of citizenship.** (1) Verification of status as a citizen or national of the United States includes

(a) a certified copy of a public record of birth or a religious record of birth or baptism showing birth in the United States, or

- (b) a certificate of citizenship, or
- (c) a certificate of naturalization, or
- (d) a United States passport, or
- (e) an identification card for use of resident citizen in the United States.

(2) If evidence described in subsections (1)(a) through (1)(e) is not available, an individual may state the reason and submit other evidence of probative value as to citizenship. [Order 1241, § 388-38-220, filed 9/23/77.]

**WAC 388-38-225 Verification of lawful admission for permanent residence in United States.** (1) Verification as to an individual's lawful admission for permanent residence in the United States includes an alien registration receipt card, or a reentry permit.

(2) If evidence described in subsection (1) is not available, the individual may state the reason and submit other evidence of probative value. [Order 1241, § 388-38-225, filed 9/23/77.]

**WAC 388-38-230 Verification of permanent residence in United States under color of law.** (1) Verification that an applicant has been residing permanently under color of law in the United States includes these determinations by immigration and naturalization service:

(a) INS form I-94 (arrival - departure record) endorsed "refugee - conditional entry," pursuant to section 203 (a)(7) of the immigration and nationality act, or

(b) INS form I-94 endorsed to show bearer has been paroled for an indefinite period pursuant to section 212 (d)(5) of the immigration and nationality act, or

(c) Documentation in the form of correspondence from the immigration and naturalization service stating the individual has been granted indefinite voluntary departure or an indefinite stay of deportation.

(2) If evidence described in subsection (1)(a) through (1)(c) is not available, the individual may state the reason therefor and submit other evidence of probative value. [Order 1241, § 388-38-230, filed 9/23/77.]

**WAC 388-38-250 Responsibility for eligibility maintenance.** Maintenance of eligibility for public assistance is a dual responsibility of the recipient and the local office. [Order 1241, § 388-38-250, filed 9/23/77.]

**WAC 388-38-255 Responsibility for eligibility maintenance—Recipient.** (1) The recipient has the responsibility to report promptly and accurately in writing all changes in his circumstances which affect his continuing eligibility for assistance.

(2) The recipient's failure to report such changes in circumstances to the local office within twenty days shall be considered prima facie evidence of fraudulent intent. (See WAC 388-44-020 (2)).

(3) The recipient shall take any action which is reasonably possible for him to develop resources which will reduce or eliminate his need for public assistance. [Order 1241, § 388-38-255, filed 9/23/77.]

**WAC 388-38-260 Responsibility for eligibility maintenance—Local office.** The LO has the responsibility to

(1) Inform recipients of all factors which may affect their continuing eligibility for assistance, and

(2) Act promptly and correctly on all known changes which affect the eligibility of recipients.

(3) Notify recipients when eligibility conditions are changed by law or rule of the department, unless the SO directly assumes this function.

(4) Complete a full periodic review if a sufficient number of factors have changed to make a full review practical. [Order 1241, § 388-38-260, filed 9/23/77.]

**WAC 388-38-265 Recipient's whereabouts unknown or failure to provide eligibility data.** (1) A recipient shall be ineligible and his grant shall be terminated when

(a) He cannot be located and he fails to furnish his current address within ten days following the mailing of a letter of his last known address asking for his information, or

(b) He fails to furnish information about his continued eligibility within ten days following the mailing of a letter to his last known address specifically citing the required information.

(2) The letter requesting the information shall include advance notice of termination as provided in WAC 388-33-380 because eligibility cannot be established unless the information is supplied within the ten day period. [Order 1241, § 388-38-265, filed 9/23/77.]

**WAC 388-38-270 Redirection of warrant.** (1) A recipient eligible for continuing assistance is entitled to regular and correct payment without undue interruption or delay. The local office may redirect a warrant only when there is evidence as specified in subsection (2) that

(a) The recipient will be ineligible for the monthly payment as previously authorized, or

(b) An overpayment will occur, or

(c) The warrant will not be received by the recipient.

(2) Factors which justify redirection of a warrant to the local office within the meaning of subsection (1) shall be limited to these situations:

(a) The address of a recipient is unknown by the local office or the recipient has reported that he has changed or will change his address prior to scheduled receipt of the warrant.

(b) A change in payee is required for correct receipt of the warrant.

(c) The recipient has not submitted in writing specific information requested to establish continuing eligibility or amount of grant, including but not limited to the designated review of eligibility form. See WAC 388-38-265.

(d) The recipient has reported incomplete information on a change in circumstances which requires a redetermination of eligibility and/or grant amount. The provisions in WAC 388-38-265 shall apply.

(e) Redirection of the warrant is required to effect a proposed reduction, suspension or termination of a grant as provided in WAC 388-33-382(2)(a). The local office shall concurrently notify the recipient of the proposed

action to reduce, suspend or terminate the grant as provided in WAC 388-33-380.

(f) A recipient has entered an institution and the local office has been notified by someone acting on his behalf.

(3) The state office may redirect a warrant to the local office when an authorization has been submitted which cannot be processed before delivery date due to error in the authorization. The warrant is redirected so that necessary action can be immediately taken to continue payment in the correct amount.

(4) The local office shall notify the recipient before action is taken to redirect a warrant for any reason other than death, unless the recipient has already been notified that a warrant change will be made. Such notification shall include:

(a) The reason for the redirect action,

(b) Assurance of corrected payment, when appropriate, at the earliest possible date,

(c) When applicable, a statement of the information the recipient must provide or the action that must be taken to establish eligibility.

(5) Decision as to the recipient's eligibility or ineligibility for the warrant shall be made at the earliest possible date but not later than 30 days after the date of its issuance.

(a) If ineligibility is determined, the warrant is cancelled. The recipient shall be notified in writing of the reason for cancellation.

(b) If ineligibility is not determined, the warrant shall be released or, if it is not in the correct amount, payment shall be authorized promptly according to WAC 388-33-140 and a one-time grant issued if necessary as provided in WAC 388-33-595 (2)(b). [Order 1241, §388-38-270, filed 9/23/77.]

**WAC 388-38-280 Periodic review and redetermination of eligibility.** (1) A redetermination of eligibility as used in this section means a complete periodic review of all eligibility and need factors.

(2) Chapters 388-28 WAC and 388-33 WAC contain rules and procedures to keep the eligibility and amount of the legal public assistance grant currently correct for all recipients at all times. WAC 388-38-200 contains a description of methods used in establishing and maintaining eligibility.

(3) To insure eligibility and correctness of grants and to meet federal requirements.

(a) AFDC-R and AFDC-FC recipients shall have their continued eligibility for such assistance redetermined at least once in every six months of continuous receipt of assistance;

(b) AFDC-E recipients shall have their continued eligibility for such assistance redetermined at least once in every three months of continuous receipt of assistance.

(4) Forms designated by the department shall be used at the time of the periodic review of eligibility. These forms shall be the statement in support of continuing eligibility. Completion and submission of the forms to the department are required from a recipient to establish continuing eligibility. The forms shall contain, or be verified by, the recipient's written declaration that the answers thereon are made under the penalty of perjury

and that this declaration shall be in lieu of any oath otherwise required. If there are two or more assistance units in a family, only one currently valid review of eligibility form covering the family's resources is required. [Order 1241, § 388-38-280, filed 9/23/77.]

**WAC 388-38-285 Content of review.** (1) The financial eligibility section shall review each eligibility factor which is subject to change and evaluate any change occurring since eligibility was previously established or reviewed.

(2) The LO shall provide the recipient information regarding

(a) Significant changes in public assistance laws or department rules not previously discussed which may affect the recipient.

(b) His responsibility to keep the LO informed of changes in his circumstances. [Order 1241, § 388-38-285, filed 9/23/77.]

**WAC 388-38-290 Action on review.** (1) Action is taken as a result so that all matters pertaining to incorrect past, current or future grants are brought into conformity with the rules of the department.

(2) A written notification must be sent according to WAC 388-33-335 and 388-33-380 to the recipient when the review results in a change in amount of grant, suspension, termination, or an overpayment has occurred. [Order 1241, § 388-38-290, filed 9/23/77.]

**WAC 388-38-295 Changing and terminating grant.** When a recipient becomes ineligible for a grant or the grant amount for which he is eligible changes, the appropriate rules in chapter 388-33 WAC shall be followed. [Order 1241, § 388-38-295, filed 9/23/77.]

## Chapter 388-42 WAC FUNERAL EXPENSE

### WAC

388-42-020	Funeral expenses—Definitions and standards.
388-42-030	Funeral expenses—Eligibility standards.
388-42-040	Funeral expenses—Resources considered.
388-42-050	Funeral expenses—Veterans' burial benefit.
388-42-060	Funeral expenses—Workmen's compensation.
388-42-070	Funeral expenses—Social security death benefit.
388-42-080	Funeral expenses—Railroad retirement death benefit.
388-42-090	Funeral expenses—Life insurance.
388-42-100	Decedent's estate.
388-42-110	Funeral expenses—Interment of two or more, bodies in one grave.
388-42-115	Funeral expenses—Application.
388-42-125	Funeral expenses—Fair hearing.
388-42-150	Funeral expenses—Maximum cost standards for funeral director's services, cemetery or cremation expenses.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-42-010	Funerals. [Regulation 15.00, filed 1/24/64.] Repealed by Order 538, filed 3/31/71, effective 5/1/71.
388-42-160	Agreements with funeral directors, cemetery and crematory operators. [Order 242, § 388-42-160, filed 10/20/67; Regulation 15.70, filed 1/24/64.] Repealed by Order 281, filed 2/14/68.



388-42-170 Lien against deceased person's assets exempted for use by spouse and/or minor children. [Regulation 15.80, filed 12/31/65.] Repealed by Order 245, filed 10/20/67.

**WAC 388-42-020 Funeral expenses—Definitions and standards.** (1) "Funeral" shall mean the proper preparation and care of the remains of a deceased person with needed facilities and appropriate memorial services, including necessary costs of a lot or cremation and all services related to interment and the customary memorial marking of a grave. However, the department shall not authorize payment for more than the cost of a standard cremation service unless there are bona fide religious objections to cremation.

(a) The funeral services which can be approved for the "cost of a standard cremation service" are funeral director's services as described in subsection (3)(a) and either cemetery services as described in subsection (5) or cremation services as described in subsection (6).

(b) The funeral services which shall be approved when an affidavit declaring bona fide religious objection is filed and approved by the local office shall be the funeral director's services described in subsection (3)(b) and either cemetery services as described in subsection (5) or cremation services as described in subsection (6).

(2) Bona fide religious objections

(a) If it can be established through a valid will or other written document that the decedent had religious objections to cremation or that he desired cremation, his wishes will be respected regardless of objections of any surviving relatives.

(b) If no such document is available, any knowledgeable person may file an affidavit, stating that within his own knowledge the decedent had personal religious objections to cremation, giving the basis for such knowledge. If the decedent's wishes cannot be established, as above indicated, religious objections can be shown by the filing of an affidavit stating such objections by the spouse, children, parents or siblings of the deceased, in that order. This means that children can object only if there is no surviving spouse or the spouse is not reasonably available; likewise, only if there are no surviving children or they are not reasonably available can the parents object, and so forth through the order. This relative need not necessarily be the applicant for the burial.

(c) When there is no religious objection to cremation no affidavit is necessary. In these instances the minimum service allowed in WAC 388-42-020(3)(a) and the charges in WAC 388-42-150(1)(a) and (2) are the maximum allowed.

(3) Minimum standard for funeral director's services

(a) When the department does not receive an affidavit declaring religious objection to cremation, the services shall be limited to those which are necessary for the transportation of the body from place of death to mortuary; proper preparation and care of the remains of a deceased person for immediate disposition either by cremation or burial; preparation and filing of death certificate and permits; a wooden container of sufficient durability to transport the remains from the funeral home to the crematory or cemetery; transportation of

the remains from the funeral home to the crematory or cemetery; use of the funeral director's staff and facilities, when requested, for a memorial service.

(b) When the department receives a written affidavit from the applicant which evidences bona fide religious objections to cremation as described in subsection (2), the services shall consist of: service car (first call); embalming and care of body; casket, octagon shape cut panel board top, or square and with raised top, covered with crepe or flannel cloth, trimmed with full art lining and six bail handles; use of reposing rooms, chapel, casket coach, one car for family and personal services.

(4) "Cost of funeral director's services" refers to the funeral director's charges for all goods and services provided by him, including all items specified in the department's minimum standard. The cost of the services and goods provided by the funeral director for a standard cremation service shall not exceed the standard in WAC 388-42-150(1)(a).

(a) When bona fide religious objections to cremation are filed, the cost of the services and goods provided by the funeral director shall not exceed the standard in WAC 388-42-150(1)(b).

(5) "Cemetery services" includes burial plot, if not previously provided, minimum grave marker, opening and closing grave, liner, and endowed care if either or both are required. Cost of the lot purchased within thirty days prior to the burial of the deceased will be included in cemetery costs. Cemetery costs shall be paid not to exceed the standard in WAC 388-42-150(2).

Items available under a prepaid burial plan shall be utilized for the purpose intended. The original cost of current market value of the prepaid items or service need not be computed.

(6) "Cremation services" includes cremation; urn (metal or other substantial material); marker; space for disposition of the remains either in a mausoleum or cemetery; and charge for depositing cremated remains. Cremation costs shall not exceed the standard in WAC 388-42-150(2).

(7) The local office shall not authorize nor shall the funeral director, cemetery or crematory accept any supplemental payment for goods and services furnished in excess of the department's minimum standard. Donated flowers, music and ministerial service shall not be considered as supplementation. However, if these services are provided by the funeral director they are considered as part of the funeral director's services and their cost must be included in the department's minimum standard. [Order 612, § 388-42-020, filed 9/27/71; Order 538, § 388-42-020, filed 3/31/71, effective 5/1/71; Order 278, § 388-42-020, filed 2/14/68; Order 242 § 388-42-020, filed 10/20/67; Regulation 15.10, filed 1/24/64.]

**WAC 388-42-030 Funeral expenses—Eligibility standards.** (1) Public assistance funds may be used to pay for the funeral expenses of a deceased person to the extent his estate and available resources (including contributions from spouse, relatives, friends, or other sources) are not wholly sufficient to defray the funeral expenses according to department policies and standards

in WAC 388-42-020 and WAC 388-42-150 and when the conditions in this section are met.

(2) Neither funeral, nor cemetery, nor crematorium costs shall be paid by the department when;

(a) Charges for any of these services exceed any one of the maximum standards in WAC 388-42-150, or when

(b) The funeral, burial or cremation takes place outside the state of Washington. However, exception to out-of-state payment rule is made for funerals in areas in bordering states which are normal trade areas of a border area of this state.

(3) Funeral costs are paid only when authorized in writing on form 14PA20 by the LO prior to the funeral services and burial or cremation.

(4) All assets of the deceased are considered available for funeral expenses. However, if the deceased was a public assistance recipient when he died, assets left to a surviving spouse and/or minor children are considered according to WAC 388-42-100.

(5) All assets of a surviving spouse or surviving parents of a minor child are considered available for funeral expenses except those resources which are exempt for a public assistance applicant and income needed to meet the monthly maintenance needs of the surviving individual and his dependents computed according to the department's continuing assistance standards.

(6) Persons applying for funeral expenses shall be required to apply for any death benefits to which the deceased may be entitled from other public or private agencies or organization. Exceptions in WAC 388-42-070 on social security death benefit and in WAC 388-42-080 on railroad retirement death benefit should be carefully observed.

(7) When a body is claimed for scientific purposes no funeral expenses shall be authorized for payment from public assistance funds.

(8) Funeral expenses for a deceased inmate of a state institution may be paid providing all funeral rules are met. Any funds of the deceased held by the institution, as well, as the resources described in subsections (4) and (5), shall be taken into consideration in determining the amount to be paid by the department. [Order 612, § 388-42-030, filed 9/27/71; Order 538, § 388-42-030, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-030, filed 8/1/69; Order 314, § 388-42-030, filed 10/31/68; Order 242, § 388-42-030, filed 10/20/67; Regulation 15.20, filed 1/24/64.]

**WAC 388-42-040 Funeral expenses—Resources considered.** The resources available for funeral expenses must be taken into consideration in determining eligibility for payment from department's funds. The listing in WAC 388-42-050 through 388-42-100 is not intended to be exhaustive. [Order 538, § 388-42-040, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-040, filed 10/20/67; Regulation 15.30, filed 1/24/64.]

**WAC 388-42-050 Funeral expenses—Veterans' burial benefit.** The United States veterans' administration pays \$250 burial benefit for a war veteran who has not been dishonorably discharged and to certain other

veterans as provided by veterans' administration regulations. Application should be made to the veterans' administration in all instances except when it is obvious there is no entitlement. The funeral director, if unpaid, or who paid the veteran's funeral expense, may claim the reimbursement from the veterans' administration. If there is any possibility that a veterans' burial benefit is available, it is essential that a claim be made prior to payment by the department. The LO shall authorize only the difference between the cost of the funeral and the death benefit. If the claim for reimbursement is denied, the original authorization shall be cancelled and payment reauthorized in the corrected amount. The department cannot claim reimbursement from the veterans' administration. [Order 538, § 388-42-050, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-050, filed 10/20/67; Regulation 15.31, filed 1/24/64.]

**WAC 388-42-060 Funeral expenses—Workmen's compensation.** The state department of labor and industries contribution toward the funeral expenses of a workman who is killed or dies from injuries received while engaged in industry covered by workmen's compensation shall be considered a resource for the payment of funeral costs. This cost varies from \$100 to \$600 depending on the law in effect as of the date of the injury resulting in the fatality. [Order 538, § 388-42-060, filed 3/31/71, effective 5/1/71.]

**WAC 388-42-070 Funeral expenses—Social security death benefit.** (1) The social security administration pays a lump sum death benefit upon the death of an insured worker. This payment is made irrespective of whether the insured worker currently received monthly benefits as a retired or disabled person and irrespective of his age. The amount of the lump sum death benefit is three times the insured worker's monthly retirement, or three times the amount he would have been eligible to receive had he been retired and applied for such monthly benefit. The amount of the lump sum varies depending on the quarters of coverage, age of the insured worker and other factors. For this reason, the exact amount due can be computed only by the SSA. The maximum lump sum death benefit is \$255.

(a) The surviving spouse "living with" the deceased at the time of death has a right to apply for and receive the lump sum death benefit without regard to payment of the funeral expenses. Separation (living apart) prior to the time of death forfeits this right except in cases of involuntary separation, for example, one person in a nursing home for a short time. The social security administration evaluates each situation before making payment to the claimant. The death benefit is paid directly to the surviving spouse "living with" the deceased at the time of death; if there is no such spouse, the department assumes responsibility for payment of the funeral expenses.

(2) Use of social security death benefit received by surviving spouse.

(a) When the surviving spouse is an applicant for or a recipient of public assistance, the receipt of the social

security death benefit is considered the same as any other income and thus is a resource available to meet current living requirements of the surviving spouse and dependents.

(b) However, the surviving spouse, or surviving minor children, or parent(s) of a deceased minor child may use any of their exempt and non-exempt resources or income, except the home property, to add to any available funeral and burial resources of the deceased to pay his funeral expenses if the total cost of the funeral does not exceed the standards in WAC 388-42-150. (See WAC 388-30-095(3)(g) for effect on eligibility of immediate survivors authorizing funeral expenses exceeding the standards in WAC 388-42-150.)

The amount the immediate survivors make available for the funeral expenses shall be entered as a resource on form 5887. [Order 538, § 388-42-070, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-070, filed 10/20/67; Regulation 15.33, filed 3/31/66; Regulation 15.33, filed 1/24/64.]

**WAC 388-42-080 Funeral expenses—Railroad retirement death benefit.** The railroad retirement board pays a death benefit upon the death of an insured railroad worker. The LO cannot determine the amount of the death benefit which may be due. The LO shall indicate on form 5887 whether the deceased has been employed by a railroad and report the amount as "unknown". The state office will be responsible for claiming and collecting the death benefit. [Order 538, § 388-42-080, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-080, filed 10/20/67; Regulation 15.34, filed 1/24/64.]

**WAC 388-42-090 Funeral expenses—Life insurance.** (1) A life insurance policy, and particularly burial insurance issued by a lodge or fraternal organization, may be a resource for the payment of funeral expenses. When the beneficiary of a life insurance policy is the surviving spouse, the use of the proceeds is conditioned by the rules in WAC 388-30-095(3)(g) and 388-42-070(2).

(2) The proceeds from a burial plan contract paid or payable directly to a funeral director shall be a resource to meet funeral expenses.

(3) Funds deposited with a funeral director shall be a resource for funeral expenses. [Order 538, § 388-42-090, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-090, filed 8/1/69; Order 242, § 388-42-090, filed 10/20/67; Regulation 15.35, filed 1/24/64.]

**WAC 388-42-100 Decedent's estate.** (1) The estate of a deceased person consists of all of his real and personal property. Any value in the estate of the deceased which can be readily determined shall be considered a resource available to meet the funeral expenses according to the rules in this section.

(2) The department may pay the cost of funeral expenses when the deceased leaves assets, if the assets are left to a surviving spouse and/or to minor children and if

these assets are resources which would be exempt in determining eligibility for public assistance. The department when it furnishes funeral assistance shall have and shall file a lien against said assets. The lien shall be valid for six years from the date of filing with the county auditor and shall have preference to all other claims except prior secured creditors. If the assets remain exempt or if no probate is commenced, the lien shall automatically terminate without further action six years after filing.

(3) When the estate is insufficient to meet the total expense of a minimum standard funeral, the ESSO should reach agreement with the funeral director and cemetery (or crematorium) operator as to the amount to be considered as currently available for payment from the estate. The state office claims reimbursement from the estate according to WAC 388-44-160 for any amount authorized by the ESSO for the payment of funeral expenses.

(4) Cash or certificates of ownership found among the effects of a deceased recipient left with a friend, nursing home or hospital belong to the estate of the deceased and may be disposed of only in the manner provided by law. Such assets are generally turned over to the nearest relative or to the administrator of the estate by the friend, nursing home or hospital.

(5) On occasion the ESSO may find itself in possession of funds or other property of a deceased recipient. Property held in custody by the ESSO shall be disposed of in one of the following ways.

(a) If an executor or administrator appears, the cash and any other property in the custody of the ESSO shall be released to him and a receipt taken.

(b) If the property is cash and the department has paid the funeral expenses, the cash is applied as a partial or complete refund of the funeral expenditure.

(c) If the property is cash and the department has not paid the funeral expenses or the amount exceeds the funeral expenditure and the deceased recipient was indebted to the department for assistance received contrary to law, the cash is applied as a credit to the indebtedness.

(d) If the property is not disposed of according to subsection (5)(a)(b)(c) the ESSO shall notify the SO of the possession of the property and retain the property pending disposition instructions from the SO. [Order 1176, § 388-42-100, filed 12/23/76; Order 538, § 388-42-100, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-100, filed 8/1/69; Order 242, § 388-42-100, filed 10/20/67; Regulation 15.36, filed 12/31/65; Regulation 15.36, filed 1/24/64.]

**WAC 388-42-110 Funeral expenses—Interment of two or more bodies in one grave.** (1) The department pays for public assistance burials of two or more bodies in one grave, provided

(a) It is legally permissible for a cemetery to make this type of interment,

(b) This type of burial is accepted practice in a cemetery and is available to the general public,

(c) When a body is claimed by relatives or church organizations, permission to bury two or more bodies in one grave is obtained in writing (filed with the LO) from

such relatives or church representatives. If the body is un-claimed, written permission shall be secured from the board of county commissioners, or its duly appointed representative, and filed with the LO.

Relatives or friends of the deceased, the county commissioners, or other persons are not to be led to believe that the department's rules limit interment to this type burial. It should be impressed upon such persons that they, rather than the department, are responsible for interment or burial.

(d) The maximum cost of this type of burial is the standard in WAC 388-42-150(2). [Order 612, § 388-42-110, filed 9/27/71; Order 538, § 388-42-110, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-110, filed 8/1/69; Order 278, § 388-42-110, filed 2/14/68; Order 242, § 388-42-110, filed 10/20/67; Regulation 15.40, filed 1/24/64.]

**WAC 388-42-115 Funeral expenses—Application.** (1) The department's legal responsibility for a deceased person does not extend beyond the responsibility of providing funds to meet the funeral expenses when the deceased meets the financial requirements set up by law. In no case does the department authorize the funeral, burial, or any other disposition of a deceased person. The authority to authorize funerals and burials is vested by statute in other designated individuals including the county commissioners in the case of an unclaimed body. The department merely authorizes payment of the expenses.

(2) Application for the payment of funeral expenses shall be made on form 14PA20 by any relative or church organization claiming the remains or, if no such person or organization exists, by the board of county commissioners, or its duly appointed representative. [Order 612, § 388-42-115, filed 9/27/71.]

**WAC 388-42-125 Funeral expenses—Fair hearing.** Relatives or friends of the deceased who apply for payment of funeral expenses shall have the right to a fair hearing if dissatisfied with the LO decision on their request. [Order 538, § 388-42-125, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-125, filed 10/20/67; Regulation 15.50, filed 1/24/64.]

**WAC 388-42-150 Funeral expenses—Maximum cost standards for funeral director's services, cemetery or cremation expenses.** (1) Funeral director's charges—actual charges, but not to exceed

(a) Standard cremation service	
Older child or adult (wooden container 5 feet or larger)	\$192
Child (wooden container 2 feet 6 inches, less than 5 feet)	\$150
Child (wooden container less than 2 feet 6 inches)	\$ 72
(b) Regular service	
Older child or adult (casket 5 feet or larger)	\$440
Child (casket 2 feet 6 inches, less than 5 feet)	\$185

Child (casket less than 2 feet 6 inches)

\$ 72

(2) Cemetery or cremation—actual charges, but not to exceed \$215 if charges for a burial place are included. If the burial place is not required, the maximum shall be \$208. When two or more bodies are buried in one grave, the cost of the first burial including the lot will be \$215. Each additional burial in the same lot will be \$208.

(3) These standards include all applicable taxes.

(4) These standards shall be effective July 1, 1977. [Order 1247, § 388-42-150, filed 10/10/77; Order 1052, § 388-42-150, filed 9/10/75; Order 907, § 388-42-150, filed 2/14/74; Order 612, § 388-42-150, filed 9/27/71; Order 538, § 388-42-150, filed 3/31/71, effective 5/1/71; Order 378, § 388-42-150, filed 8/7/69; Order 255, § 388-42-150, filed 11/8/67; Regulation 15.60, filed 1/24/64.]

### Chapter 388-44 WAC

#### OVERPAYMENT—REPAYMENT

##### WAC

388-44-010	Overpayment—Defined.
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#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-44-045	Overpayment—During known period of ineligibility. [Regulation 16.13, filed 1/24/64.] Repealed by Order 396, filed 10/15/69.
388-44-075	Establishing overpayment. [Order 396, § 388-44-075, filed 10/15/69; Regulation 16.20, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
388-44-085	Establishing overpayment—Person not available for interview. [Order 396, § 388-44-085, filed 10/15/69; Regulation 16.22, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
388-44-095	Establishing overpayment—Substantiation. [Order 396, § 388-44-095, filed 10/15/69; Regulation 16.23, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
388-44-155	Involuntary repayment—Current or former recipient. [Regulation 16.323, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
388-44-200	Accounts receivable. [Reference section only.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
388-44-205	Accounts receivable—Establishing. [Regulation 16.41, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.

- 388-44-210 Accounts receivable—Closures. [Regulation 16.42, filed 12/21/64, effective 2/1/65; Regulation 16.42, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-215 Accounts receivable—Credit balances. [Regulation 16.43, filed 12/21/64, effective 2/1/65; Regulation 16.43, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-220 Accounts receivable—Transfer. [Regulation 16.44, filed 12/21/64, effective 2/1/65; Regulation 16.44, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-240 Cash repayment. [Regulation 16.50, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-255 Preparation of will. [Regulation 16.61, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-285 Subrogation—Responsibility. [Regulation 16.71, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-300 Subrogation—Other procedures for collection. [Regulation 16.74, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-315 Adjustment of federal aid matching erroneously claimed. [Regulation 16.80, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-320 Conditions requiring adjustment. [Regulation 16.81, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-325 Method of reporting. [Regulation 16.82, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.

**WAC 388-44-010 Overpayment—Defined.** (1) "Overpayment" means any assistance paid to a person (assistance unit) who is not eligible or assistance paid to an eligible person in excess of need.

(2) An overpayment includes vendor payments for medical care provided during a period when the individual was not eligible for public assistance.

(3) Funeral expenses paid by the department are an overpayment to the extent the value of the estate is not used as a resource in determining eligibility. However, the department's funeral expense payment is not repayable when the surviving spouse and/or dependent child(ren) receive from the estate only those assets (resources) which are exempt in determining their eligibility for public assistance. [Order 1058, § 388-44-010, filed 10/1/75; Order 800, § 388-44-010, filed 5/25/73; Order 539, § 388-44-010, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-010, filed 10/15/69; Regulation 16.01, filed 1/24/64.]

**WAC 388-44-020 Fraud—Defined.** (1) "Fraud" shall mean a deliberate, intentional, and willful act, with the specific purpose of deceiving the department with respect to any material fact, condition, or circumstance affecting eligibility or need.

(a) "Act" as used here includes the willful failure to act when there is a lawful duty to act, and the willful concealment of or failure to reveal information when there is a lawful duty to reveal such information.

(b) An act based on ignorance, confusion, or mistake and done without intention to deceive shall not be considered fraudulent.

(c) An applicant or recipient shall not be charged with fraud when an overpayment is directly due to any omission, neglect, or error by the department in securing, recording, or acting on information, but shall be responsible for repayment of the overpayment pursuant to the applicable rules in WAC 388-44-127, 388-44-130, and 388-44-140.

(2) The failure of any recipient of public assistance to notify the department within twenty days of any change in circumstances affecting eligibility or need, including receipt or possession of all income or resources not previously declared to the department, shall be prima facie evidence of fraud. When a local office finds that an applicant or recipient has misstated or failed to reveal any material fact affecting eligibility or need, it shall presume that such act was done intentionally.

(3) It shall be the duty of the department, whenever it finds misstatement or failure to reveal pertinent facts or circumstances, to secure further evidence, whenever possible, which enables it to formulate a firm opinion as to whether or not the act was committed intentionally and fraudulently. In the absence of such further evidence, the presumption is not overcome; however, such presumption is rebuttable.

(4) Evidence to consider in determining whether the existence of fraud is established or negated may include, but is not limited to, the following:

(a) A statement of the applicant or recipient,

(b) Names, addresses, and statements of persons who can verify or refute the statement of the applicant or recipient,

(c) Documents such as birth certificates, medical records, letters, affidavits, receipts, deeds, contracts, and any other type of written or printed communication,

(d) Any elements in the applicant/recipient's situation which reasonably explain any misstatements or failure to reveal information. Such elements might include physical or mental conditions of the applicant/recipient, language difficulties, problems due to distance, and failure of the local office to fully advise the applicant/recipient.

(5) It is of paramount importance that the local office inform all applicants and recipients of their rights and responsibilities concerning eligibility for and receipt of assistance. Primary among the responsibilities of applicants and recipients is the obligation to report all circumstances which affect eligibility and need. Fundamental among the rights of applicants and recipients is the right to be informed by the local office what those circumstances are.

(6) See chapter 388-46 WAC for referral to county prosecutor for possible criminal action. [Order 843, § 388-44-020, filed 8/9/73; Order 800, § 388-44-020, filed 5/25/73; Order 539, § 388-44-020, filed 3/31/71, effective 5/1/71; Regulation 16.02, filed 1/24/64.]

**WAC 388-44-035 Overpayment—Due to factors other than need.** (1) The amount of the overpayment to an individual who is ineligible for reasons other than financial need shall be determined as follows.

(a) If assistance is obtained as a result of a willful act of the recipient to deceive the department, the overpayment shall be 125 per cent of the amount of assistance,

including medical care, to which he was not entitled during such period of ineligibility.

(b) If no willful act to deceive is involved, the overpayment shall be the amount of assistance, including medical care, to which he was not entitled during the period of ineligibility, provided that such overpayment shall be reduced by the amount of assistance that the recipient would have been eligible to receive during the period of ineligibility from any other category of assistance. [Order 539, § 388-44-035, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-035, filed 10/15/69; Regulation 16.11, filed 1/24/64.]

**WAC 388-44-040 Overpayment—Due to need factor.** (1) When assistance has been paid to a recipient not in financial need or in excess of his need, the amount of the overpayment within the limits prescribed in WAC 388-44-010 shall be determined as follows.

(a) Any part of any payment, including medical care, obtained as a result of a willful act of the recipient is considered assistance to which the recipient is not entitled. The overpayment shall be 125 per cent of such amount.

(b) If no willful act to deceive is involved, the overpayment shall be the actual amount received in excess of need including medical care.

(2) Any overpayment in any month prior to the effective date of the latest recomputation of grant shall be reduced by the amount of any underpayment in any month prior to the effective date of the latest recomputation. [Order 539, § 388-44-040, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-040, filed 10/15/69; Regulation 16.12, filed 1/24/64.]

**WAC 388-44-046 Overpayment—Support payments not treated as overpayment.** Support payments received directly by the parent or other caretaker relative from the absent parent shall be remitted to the office of support enforcement. Such payments shall not be treated as a grant overpayment, but shall be considered as a debt to be collected by the office of support enforcement. [Order 1054, § 388-44-046, filed 9/25/75.]

**WAC 388-44-050 Overpayment—Relationship to underpayment.** It is possible to overpay one recipient in an assistance unit while another in the same unit is underpaid, or to overpay in one requirement and underpay in another. The assistance unit's over or under payment is the net amount or difference between the two incorrect payments or computations. Over or underpayment in one assistance unit shall not be credited to any other assistance unit. [Order 539, § 388-44-050, filed 3/31/71, effective 5/1/71; Regulation 16.14, filed 1/24/64.]

**WAC 388-44-110 Overpayment—Liability of payee.** (1) Liability for an overpayment shall follow the payee of the grant as an individual. The overpayment account receivable is established in the name of the payee and all further action (monthly deduction from grant, suspension of grant, claim against estate, etc.) is taken against that individual. The exception to this rule is the

individual acting as payee only and deriving no financial benefit from the payment of assistance. In such instance the overpayment account receivable is established in the name of the person who received the financial benefit of the payment of assistance.

(2) Joint liability for an overpayment results when all of the following factors are present: overpayment is the result of fraud, collusion is shown between the payee and another party who received a financial benefit as a result of the overpayment. In these instances the overpayment account receivable is established in the name of both parties. Subsequent action is taken against the parties either jointly or individually. [Order 800, § 388-44-110, filed 5/25/73; Order 539, § 388-44-110, filed 3/31/71, effective 5/1/71; Regulation 16.24, filed 1/24/64.]

**WAC 388-44-115 Verification of overpayment.** (1) When an apparent overpayment has occurred, the department shall attempt to verify all pertinent information in the case. It shall attempt to contact the recipient and request an explanation of the circumstances surrounding the apparent overpayment.

(2) If the recipient does not respond or fails to cooperate, the department shall make an independent determination, based on all available information, that an overpayment either has or has not occurred.

(3) When an overpayment has been verified, the department shall take appropriate action to secure repayment as prescribed by WAC 388-44-125 through WAC 388-44-160. Any such action shall be consistent with departmental rules on notification of suspension, termination, or reduction of grant.

(4) A letter shall be sent to any recipient or payee whose liability for an overpayment has been established. This letter shall include the following information:

- (a) The amount of the overpayment,
- (b) The circumstances which brought about the overpayment,
- (c) The dates on which overpayment occurred,
- (d) A determination that fraud is or is not involved,
- (e) A statement that overpayments and any penalties for fraud are debts due the state,
- (f) A computation of the amount due the state,
- (g) A request that the person contact the local office to discuss the method of repayment,
- (h) A statement of the right to a fair hearing. [Order 800, § 388-44-115, filed 5/25/73.]

**WAC 388-44-120 Invalid overpayment.** When the department finds that it has mistakenly charged an individual with an overpayment which in fact never occurred, the individual shall not be held liable for repayment. In such a case, if an account receivable has been established by the department, such account shall be nullified and the individual so notified in writing. The individual shall be refunded any amount paid into the invalid overpayment account. [Order 800, § 388-44-120, filed 5/25/73.]

**WAC 388-44-125 Repayment of overpayment.** (1) Repayment of an overpayment shall be made by the individual from his resources or income, or in certain cases

by deductions from subsequent grants, or as a result of civil or criminal action initiated by the department or the prosecutor, and/or from his estate upon death.

(2) Deleted

(3) In determining whether a person is financially able to make repayment, the individual, except when fraud is involved, is not asked to mortgage his home or personal property which he is using, or make a loan on his life insurance, in order to secure cash to repay the department.

(4) A public assistance money grant may not be reduced to recover overpayments of medical assistance, food coupons, or food commodities. [Order 965, § 388-44-125, filed 8/29/74; Order 897, § 388-44-125, filed 1/11/74; Order 800, § 388-44-125, filed 5/25/73; Order 539, § 388-44-125, filed 3/31/71, effective 5/1/71; Regulation 16.30, filed 1/24/64.]

**WAC 388-44-127 Repayment of overpayment resulting from department error.** (1) Overpayments resulting from department error are treated the same as overpayments from other causes, except that they shall not be used as the basis for a mandatory grant deduction. When such overpayment is verified, the amount of the overpayment becomes a debt due the state.

(2) If an overpayment results from an error by the department and no fault on the part of the recipient in obtaining or retaining the assistance received, determinations may be made as follows:

(a) If the monthly amount of overpayment is less than \$25, the local office administrator may relieve the recipient of liability for repayment and transfer the account receivable to closed status.

(b) If the monthly amount of overpayment is \$25 or more, the secretary or his designee may relieve the recipient of liability for repayment when recommended by the local office on grounds that repayment would be inequitable. The secretary or his designee will notify the local office of his decision. [Order 897, § 388-44-127, filed 1/11/74; Order 800, § 388-44-127, filed 5/25/73; Order 539, § 388-44-127, filed 3/31/71, effective 5/1/71; Order 512, § 388-44-127, filed 1/14/71, effective 2/15/71; Order 396, § 388-44-127, filed 10/15/69.]

**WAC 388-44-130 Voluntary repayment of overpayment.** (1) Overpayments are debts due the state. Collection of such debts shall be effected by the department according to established rules and procedures. A former recipient continues to be liable for overpayment debts incurred while he was a recipient, until such time as the debt is paid in full or charged off as uncollectible by the secretary and the attorney general.

Whenever possible, repayment by a recipient or former recipient should be voluntary, resulting from a common understanding between the department and the debtor.

(2) The possibility of immediate repayment shall be discussed, if possible, with the individual at the time the overpayment is discovered. If the individual has sufficient funds available and is willing to repay all or part of

the amount due, collection is effected and the situation summarized in the case record.

(3) When an overpayment is the result of departmental error or non-fraudulent recipient action and the recipient desires to repay from future assistance grants, a voluntary grant deduction may be used to liquidate the overpayment. Before such plan is established, the local office must explain to the recipient that this overpayment is not collectible under the mandatory deduction rules in WAC 388-44-145 and that a voluntary deduction cannot be made unless the recipient so requests in writing specifying the amount of the monthly deduction. Voluntary grant deductions may be discontinued or modified at any time upon written request from the recipient.

(4) If a former recipient is not able to repay in full immediately but can pay in installments or at some future date, the individual shall be requested to sign a written agreement in duplicate confirming the plan. A copy of the agreement shall be given to the individual. The agreement may be modified at any time if justified by extenuating circumstances. Necessary controls shall be established to insure that repayment plans are complied with. [Order 965, § 388-44-130, filed 8/29/74; Order 897, § 388-44-130, filed 1/11/74; Order 800, § 388-44-130, filed 5/25/73; Order 539, § 388-44-130, filed 3/31/71, effective 5/1/71; Order 446, § 388-44-130, filed 4/28/70; Regulation 16.31, filed 1/24/64.]

**WAC 388-44-140 Involuntary repayment of overpayment.** (1) The local office shall be responsible for effecting involuntary repayment of overpayments from current recipients when such repayments are to be made by grant deduction as specified in WAC 388-44-145.

(2) The reimbursement section and the attorney general shall be responsible for effecting involuntary repayment of overpayments from former recipients.

(3) Except in cases involving substantiated fraud, it is the policy of the department not to seek involuntary repayment from a former recipient whose income and resources do not exceed departmental standards for determining public assistance eligibility. [Order 897, § 388-44-140, filed 1/11/74; Order 800, § 388-44-140, filed 5/25/73; Order 539, § 388-44-140, filed 3/31/71, effective 5/1/71; Regulation 16.32, filed 1/24/64.]

**WAC 388-44-145 Involuntary repayment of overpayment—Mandatory grant deduction.** (1) An overpayment shall be recouped by mandatory deduction from future continuing assistance grants only when the department has made a determination that the overpayment resulted from recipient fraud as defined in WAC 388-44-020

(2) If an overpayment is the result of recipient fraud and if the recipient has cash, bank accounts, or marketable securities which he refuses to use in full or partial satisfaction of an overpayment, a monthly deduction of up to one hundred percent of future grant(s) shall be established until such time as the amount of the grant(s) the recipient would be otherwise eligible to receive equals the value of the cash, bank accounts, or marketable securities which have been withheld.

(3) When deductions have been made pursuant to subsection (2) and the recipient still owes money, or when subsection (2) does not apply

(a) The department shall, on a case-by-case basis, limit the amount of the monthly deduction so as not to cause undue hardship. The deduction shall not exceed ten percent of the recipient's total monthly requirements unless the recipient requests a larger deduction in writing.

(b) Deleted

(c) Deleted

(d) When a recipient is in a nursing home, intermediate care facility, or hospital, a monthly deduction may be made against the clothing and incidental grant to the recipient. A monthly deduction shall not be made against the vendor payment to the nursing home or intermediate care facility.

(e) The grant shall be suspended when the monthly deduction is equal to or more than the grant which would have been paid had no overpayment occurred.

(f) A deduction shall not be made from a noncontinuing general assistance-employable grant to liquidate an overpayment.

(4) A letter confirming the repayment plan shall be sent to the recipient. The letter shall state the percentage of monthly requirements to be deducted. It shall state the amount of the current grant before and after the deduction is made, the date the deduction begins, the total amount of overpayment to be recouped by grant deduction, and the approximate number of months the deduction will be made. [Order 965, § 388-44-145, filed 8/29/74; Order 897, § 388-44-145, filed 1/11/74; Order 800, § 388-44-145, filed 5/25/73; Order 539, § 388-44-145, filed 3/31/71, effective 5/1/71; Order 401, § 388-44-145, filed 11/5/69; Order 324, § 388-44-145, filed 11/27/68; Emergency Order 310, filed 10/18/68; Regulation 16.321, filed 6/30/67; Regulation 16.321, filed 8/29/66, 1/24/64.]

**WAC 388-44-150 Involuntary repayment of overpayment—Lien on property.** When the department determines that fraud is involved in an overpayment, the filing of a lien against property owned by the individual shall be the responsibility of the reimbursement section. [Order 800, § 388-44-150, filed 5/25/73; Order 539, § 388-44-150, filed 3/31/71, effective 5/1/71; Regulation 16.322, filed 1/24/64.]

**WAC 388-44-160 Repayment from estate.** An overpayment of assistance not repaid during the person's lifetime is repayable from his estate. [Order 539, § 388-44-160, filed 3/31/71, effective 5/1/71; Order 251, § 388-44-160, filed 11/1/67; Regulation 16.324, filed 1/24/64.]

**WAC 388-44-250 Gifts, bequests by will, contributions.** (1) The department may accept gifts, bequests or contributions in cash or otherwise from persons, associations, or corporations.

(2) The LO shall not accept a gift or contribution from a person eligible for public assistance.

(3) A recipient of public assistance or any other person desiring information or assistance regarding the preparation of a will shall be advised to contact an attorney of his choice or the local legal aid society. [Order 539, § 388-44-250, filed 3/31/71, effective 5/1/71; Regulation 16.60, filed 1/24/64.]

**WAC 388-44-280 Subrogation.** (1) If any payment of public assistance is made or increased for the benefit of any dependent child because of the failure of the responsible parents to provide adequate support, such parents are liable to the state in the amount of the assistance granted.

(2) The need of the child and of the caretaker relative shall be deemed met by the responsible parents only if support is provided in an amount equal to the lesser of the payment required by court order, or the amount of assistance paid by the department. [Order 539, § 388-44-280, filed 3/31/71, effective 5/1/71; Regulation 16.70, filed 1/24/64.]

**Chapter 388-46 WAC**

**RECIPIENT FRAUD—REFERRAL TO PROSECUTOR**

**WAC**

388-46-010 Fraud—Criminal prosecution.  
388-46-100 Fraud—Federal food coupons.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 388-46-020 State office investigative units. [Regulation 17.20, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-030 Methods of handling suspected fraud cases—Investigative unit help not required. [Regulation 17.31, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-040 Methods of handling suspected fraud case—Investigative unit help needed. [Regulation 17.32, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-050 Fraud—Referral to prosecutor. [Order 540, § 388-46-050, filed 3/31/71, effective 5/1/71; Regulation 17.40, filed 1/24/64.] Repealed by Order 801, filed 5/25/73.
- 388-46-060 Register of suspected fraud cases. [Regulation 17.50, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-070 Complaints. [Regulation 17.60, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-080 Case reading by investigative unit administrative assistant. [Regulation 17.70, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-090 Fraud—Restitution of overpayment. [Order 540, § 388-46-090, filed 3/31/71, effective 5/1/71; Regulation 17.80, filed 1/24/64.] Repealed by Order 801, filed 5/25/73.

**WAC 388-46-010 Fraud—Criminal prosecution.**

(1) The department has a duty to refer all cases in which it has found substantial evidence supporting a finding of fraud to the county prosecuting attorney for possible criminal action. Prima facie evidence does not in itself provide a substantial basis for criminal prosecution.



(2) See WAC 388-44-020 for the definition of fraud and the department's responsibilities regarding investigations of suspected fraud.

(3) It is the county prosecuting attorney's responsibility to decide which cases he will prosecute. It is the responsibility of the department to establish a working relationship with the prosecutor and to refer to the prosecutor only those cases which are well-prepared and in keeping with the guidelines provided by the prosecutor. [Order 801, § 388-46-010, filed 5/25/73; Order 540, § 388-46-010, filed 3/31/71, effective 5/1/71; Regulation 17.10, filed 1/24/64.]

**WAC 388-46-100 Fraud—Federal food coupons and commodities.** Chapter 388-46 WAC shall apply to those cases in which the department has found substantial evidence indicating fraudulent receipt of federal food coupons or commodities. [Order 801, § 388-46-100, filed 5/25/73; Order 540, § 388-46-100, filed 3/31/71, effective 5/1/71; Regulation 17.90, filed 1/24/64.]

### Chapter 388-48 WAC SAFEGUARDING INFORMATION

#### WAC

388-48-010	Public assistance information confidential and privileged.
388-48-020	Information not confidential.
388-48-030	Conditions and limitations on disclosing confidential information—Inquiry whether individual receives assistance.
388-48-033	Conditions and limitations on disclosing confidential information—Request from parent for address or location of child.
388-48-037	Conditions and limitations on disclosing confidential information—Request from law enforcement agency or United States immigration service for address or location of recipient.
388-48-040	Conditions and limitations on disclosing confidential information—Information related to administration of assistance.
388-48-050	Conditions and limitations on disclosing confidential information—Release of information to United States armed services.
388-48-070	Conditions and limitations on disclosing confidential information—Release of information requested by applicant or recipient.
388-48-080	Conditions and limitations on disclosing confidential information—Release of information to applicant or recipient.
388-48-100	Employees authorized to disclose information.
388-48-110	Distribution of rules and regulations.
388-48-120	Solicitation or use of confidential information.
388-48-130	Prohibition against release of confidential and privileged information in judicial proceedings.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-48-025	Conditions and limitations on disclosing confidential information. [Reference section only] Repealed by Order 541, filed 3/31/71, effective 5/1/71.
388-48-060	Conditions and limitations on disclosing confidential information—Release of information to disability insurance unit. [Regulation 18.24, filed 1/24/64.] Repealed by Order 541, filed 3/31/71, effective 5/1/71.
388-48-140	General. [Regulation 18.70, filed 1/24/64.] Repealed by Order 541, filed 3/31/71, effective 5/1/71.

**WAC 388-48-010 Public assistance information confidential and privileged.** Information concerning individuals obtained by the department including, but not limited to, names addresses, information obtained as a result of applications, investigations, medical examinations, and correspondence, or obtained in any other way concerning the condition or circumstances of any person from whom or about whom information is obtained, regardless of whether such information is recorded, and records of departmental evaluation of such information are confidential and privileged and may not be disclosed or used either directly or indirectly in any manner or for any purpose, including judicial proceedings, except for purposes directly connected with the administration of public assistance, and as provided in WAC 388-48-030 through 388-48-080. [Order 541, § 388-48-010, filed 3/31/71, effective 5/1/71; Regulation 18.10, filed 1/24/64.]

**WAC 388-48-020 Information not confidential.** General information not identified with any particular individual such as total expenditures, number of recipients, other statistical and social data obtained from studies, reports or surveys, is not deemed to be confidential and may be released for any purpose. [Order 541, § 388-48-020, filed 3/31/71, effective 5/1/71; Regulation 18.11, filed 1/24/64.]

**WAC 388-48-030 Conditions and limitations on disclosing confidential information—Inquiry whether individual receives assistance.** (1) Any individual may inquire of the department whether any named individual is currently receiving assistance and shall be given an affirmative or negative answer. No additional information can be given except in connection with WAC 388-48-037 through 388-48-070.

(2) The warrant roll is the record of disbursements of funds or payments showing the amounts of assistance paid individual recipients and shall be construed as satisfying state law that the ESSO shall maintain monthly reports showing the names and addresses of all recipients in the county together with the amount paid to each during the preceding month. [Order 1096, § 388-48-030, filed 2/13/76; Order 993, § 388-48-030, filed 12/31/74; Order 541, § 388-48-030, filed 3/31/71, effective 5/1/71; Regulation 18.21, filed 1/24/64.]

**WAC 388-48-033 Conditions and limitations on disclosing confidential information—Request from parent for address or location of child.** (1) The ESSO's and other local administrative sections of the department shall, upon written request of a parent who has been awarded visitation rights in an action for divorce or separation, disclose to such parent the current address and location of his or her natural or adopted child(ren) if they are currently receiving financial aid from the department as shown by the warrant roll or nonassistance support enforcement services. Information supplied to a parent by the department shall be used only for purposes directly related to the visitation provisions of the court order of separation or decree of divorce. No parent shall disclose such information to any other person except for

the purpose of enforcing visitation provisions of the said order or decree.

(2) A request for address and location information under this provision shall be accompanied by a copy of the appropriate court order of separation or decree of divorce, and the requesting parent shall state in his or her written request that the accompanying order has not been subsequently modified or amended.

(3) The ESSO or local administrative section shall release the information personally to the requesting parent only at the department's office and only upon satisfactory evidence of identity of the requesting party. This provision does not apply where the request is made through an attorney at law representing the parent. [Order 1096, § 388-48-033, filed 2/13/76; Order 1030, § 388-48-033, filed 6/12/75; Order 843, § 388-48-033, filed 8/9/73.]

**WAC 388-48-037 Conditions and limitations on disclosing confidential information—Request from law enforcement agency or United States immigration service for address or location of recipient.** The department shall upon written request of a law enforcement agency or United States immigration service provide the current address or location of a recipient of financial assistance, as listed on the warrant roll when:

(1) The written request is presented in person by an identified law enforcement officer or United States immigration official, and;

(2) The felony warrant or warrant for an illegal alien is shown, and;

(3) The identity of the recipient can be established from the information stated in the warrant. [Order 993, § 388-48-037, filed 12/31/74; Order 843, § 388-48-037, filed 8/9/73.]

**WAC 388-48-040 Conditions and limitations on disclosing confidential information—Information related to administration of assistance.** (1) Information may be released for purposes essential to the administration of the assistance programs. Some disclosure of information occurs unavoidably in determining eligibility and providing services. Inquiries to a bank, a former employer, or another social agency in themselves disclose the fact that an application has been made. In these circumstances the disclosure of information is permissible if limited to the pertinent questions. The fact that the LO may make such inquiry should be made known to the applicant in discussing with him the ways in which the necessary verifications will be assembled. Such discussion permits him to suggest alternative methods of verification or to withdraw his application if he prefers.

(2) Persons requesting information from LO shall properly identify themselves and make clear the reason for their request. The request must be evaluated to determine whether a relationship exists to the administration of assistance. Request from welfare agencies, public officials, law enforcement officers, etc., must be similarly evaluated and information disclosed only when the relationship is apparent. For example, information

regarding the whereabouts of a father may be given to a law enforcement agency if the reason for the inquiry relates to the family's welfare or eligibility for assistance. The fact that certain information about a case situation may properly be disclosed does not justify disclosure of other facts which are not related to the administration of assistance.

(3) Persons receiving confidential information shall be advised that under the law they assume the same responsibility for safeguarding it as is required of the department. [Order 541, § 388-48-040, filed 3/31/71, effective 5/1/71; Regulation 18.22, filed 1/24/64.]

**WAC 388-48-050 Conditions and limitations on disclosing confidential information—Release of information to United States armed services.** (1) Since the possible receipt of dependency benefits from the armed services may affect the amount of assistance to which an individual is entitled, the LO may release pertinent information to the armed services.

(2) The army may inquire whether the secondary dependents of a serviceman are receiving assistance, and the amount of the grant. Additional information required by the army is secured by the army directly from the dependents. [Order 541, § 388-48-050, filed 3/31/71, effective 5/1/71; Regulation 18.23, filed 1/24/64.]

**WAC 388-48-070 Conditions and limitations on disclosing confidential information—Release of information requested by applicant or recipient.** Any information which has been supplied by the applicant or recipient himself may be released to any person when the applicant or recipient requests in writing that the information be disclosed. Other information may be disclosed upon the request of the applicant or recipient at the discretion of the LO except when the person who originally supplied the information did so with the understanding that it would not be released. In such instances the applicant or recipient should be referred to the original source of the information. [Order 541, § 388-48-070, filed 3/31/71, effective 5/1/71; Regulation 18.25, filed 1/24/64.]

**WAC 388-48-080 Conditions and limitations on disclosing confidential information—Release of information to applicant or recipient.** (1) Information concerning the basis for eligibility, ineligibility, or amount of grant to an applicant for or recipient of public assistance may be released to the applicant or recipient who has requested a fair hearing.

(2) After the filing of a notice of appeal with the director, an appellant, his next of kin, his attorney or his authorized agent, shall have the right of access to, and can examine the official records of the department (WAC 388-08-007) in the case on appeal. In allowing access to record material under this provision, written authorization from the appellant to request such information shall be required of an agent or attorney before access can be given. In the case of next of kin the authorization need not be written.

(3) In instances other than fair hearings, information may be released to the applicant or recipient at the discretion of officials authorized to disclose such information. [Order 541, § 388-48-080, filed 3/31/71, effective 5/1/71; Regulation 18.26, filed 1/24/64.]

**WAC 388-48-100 Employees authorized to disclose information.** (1) Any employee may release information necessary to the discharge of his official duties.

(2) Any employee designated by the LO administrator may respond to an inquiry whether a named individual is or is not receiving assistance.

(3) All other requests for the release of information coming to the department shall be answered:

(a) For the state office by the secretary, assistant secretary, office chiefs, section supervisors, and other persons designated by the secretary.

(b) For the LO by the administrator and supervisors. [Order 541, § 388-48-100, filed 3/31/71, effective 5/1/71; Regulation 18.30, filed 1/24/64.]

**WAC 388-48-110 Distribution of rules and regulations.** A copy of the rules and regulations in chapter 388-48 WAC shall be available in the state office and in each LO for inspection by employees and the public. [Order 541, § 388-48-110, filed 3/31/71, effective 5/1/71; Order 271, § 388-48-110, filed 12/5/67; Regulation 18.40, filed 1/24/64.]

**WAC 388-48-120 Solicitation or use of confidential information.** (1) No person, whether an employee of the department or not, shall solicit, publish, disclose, receive, make use of, or authorize, knowingly permit, participate in or acquiesce in the use of any lists or names for commercial or political purposes of any nature.

(2) Information released under provisions of WAC 388-48-025 through 388-48-080 retains its confidential character and the receiver is required, under penalty of law, to preserve its confidentiality. [Order 541, § 388-48-120, filed 3/31/71, effective 5/1/71; Regulation 18.50, filed 1/24/64.]

**WAC 388-48-130 Prohibition against release of confidential and privileged information in judicial proceedings.** In view of its confidential and privileged nature, information shall not be released without the specific request of the applicant or recipient concerned at any stage or in any form in a judicial proceeding, either voluntarily or as a result of a subpoena, subpoena duces tecum, or other judicial process, except when such disclosure is for purposes directly connected with the administration of public assistance. This prohibition shall likewise apply to disclosures to any public committee, board or commission. [Order 541, § 388-48-130, filed 3/31/71, effective 5/1/71; Order 271, § 388-48-130, filed 12/5/67; Regulation 18.60, filed 1/24/64.]

#### Chapter 388-52 WAC

#### SERVICES INVOLVING OTHER AGENCIES

##### WAC

388-52-150 Vocational rehabilitation services for disabled.

[Title 388 WAC—p 130]

388-52-155 Vocational rehabilitation services for disabled—  
Training expenses.  
388-52-160 Comprehensive employment and training program—Definitions.  
388-52-163 Comprehensive employment and training program—Services provided.  
388-52-166 Comprehensive employment and training program—Participation of recipient.  
388-52-169 Treatment of recipient's income from CETA.  
388-52-172 Release of information to prime sponsors of CETA program.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-52-156 Vocational rehabilitation services for disabled—  
Time limitation on training. [Order 542, § 388-52-156, filed 3/31/71, effective 5/1/71.] Repealed by Order 854, filed 9/13/73.  
388-52-175 Vocational rehabilitation services for disabled—  
Division of costs between department and division of vocational rehabilitation. [Order 465, § 388-52-175, filed 6/23/70; Regulation 20.245, filed 1/24/64.] Repealed by Order 542, filed 3/31/71, effective 5/1/71.  
388-52-185 Vocational rehabilitation services for disabled—  
Time limitation on training. [Order 465, § 388-52-185, filed 6/23/70; Regulation 20.246, filed 1/24/64.] Repealed by Order 542, filed 3/31/71, effective 5/1/71.  
388-52-200 Vocational rehabilitation services for nondisabled. [Regulation 20.25, filed 1/24/64.] Repealed by Order 465, filed 6/23/70.  
388-52-225 Other considerations in joint case planning. [Regulation 20.255, filed 1/24/64.] Repealed by Order 465, filed 6/23/70.

**WAC 388-52-150 Vocational rehabilitation services.** (1) The local office shall utilize the resources of the vocational rehabilitation division in behalf of incapacitated recipients of continuing general assistance and AFDC who are eligible for and for whom vocational rehabilitation services are feasible.

(2) Vocational rehabilitation services for blind persons are provided by the division. [Order 975, § 388-52-150, filed 10/11/74; Order 542, § 388-52-150, filed 3/31/71, effective 5/1/71; Order 465, § 388-52-150, filed 6/23/70; Regulation 20.24, filed 1/24/64.]

**WAC 388-52-155 Vocational rehabilitation services—Training expenses.** (1) The vocational rehabilitation division provides funds for expenses directly attributable to participation in a vocational rehabilitation plan. It does not pay for any item provided for in public assistance standards for requirements except for continuing general assistance recipients who are receiving rehabilitation services from the division.

(2) The division provides full maintenance costs for continuing general assistance recipients while they are receiving rehabilitation services. The local office shall terminate assistance to such recipients effective with the beginning of vocational rehabilitation maintenance payment.

(3) For an AFDC recipients receiving services from the division

(a) The assistance payment shall include all requirements as provided in the monthly standards for basic requirements but shall not include any costs directly attributable to the rehabilitation plan with the exception

of necessary child care for a plan approved by the local office.

(b) If it is necessary for a recipient to leave the home to carry out the vocational rehabilitation plan, the grant shall be re-computed; separate assistance units shall be established for the vocational rehabilitation client and for the other members of his family. [Order 975, § 388-52-155, filed 10/11/74; Order 542, § 388-52-155, filed 3/31/71, effective 5/1/71.]

**WAC 388-52-160 Comprehensive employment and training program—Definitions.** (1) "Act" as used in WAC 388-52-160 through 388-52-172 means the comprehensive employment and training act (CETA).

(2) Allowance

(a) "Basic training allowance" - a weekly payment to defray living costs during participation in training.

(b) "Dependent's allowance" - an additional weekly payment of five dollars per week for each dependent over two, up to a maximum of four additional dependents, for a maximum additional allowance of twenty dollars a week for six or more dependents.

(c) "Incentive allowance" - a thirty dollar weekly payment in lieu of the basic allowance to a participant receiving public assistance.

(d) "Additional allowance" - a payment to a participant for training expenses, for subsistence or for emergency needs.

(3) "Consortium" - an agreement among local units of government to develop and sponsor a manpower program.

(4) "Participant" - an individual who qualifies for and receives service or who takes part in the activities of a CETA program.

(5) "Prime sponsor" - a unit of government, or a combination of units of government, or a rural concentrated employment program which has entered into an agreement with the U.S. department of labor to provide manpower services under the act.

(6) "Public service employment" is employment by a government agency to provide services within the scope of its normal responsibility and for which wages and salaries are funded by Title II of the act. [Order 975, § 388-52-160, filed 10/11/74.]

**WAC 388-52-163 Comprehensive employment and training program—Services provided.** (1) Manpower services under the comprehensive employment and training act are provided by local government units acting as prime sponsors of the program in the local area. Public assistance recipients are priority candidates for services from the program.

(a) Title I of the act provides for basic education and vocational training, employment orientation and counseling, work experience, job placement, and a variety of supportive services.

(b) Title II of the act provides for the establishment and operation of public service employment programs.

(2) Benefits to participants under Title I of the act may consist of basic training allowance; incentive payments to persons receiving public assistance; wages from

employment under CETA other than public service employment; payments for transportation and other expenses of participation; and a variety of supportive services such as child care, residential support and family planning. [Order 975, § 388-52-163, filed 10/11/74.]

**WAC 388-52-166 Comprehensive employment and training program—Participation of recipient.** (1) If the participant is assigned to the CETA program by WIN, WIN rules regarding participation requirements are applicable.

(2) If the participant is enrolled on the basis of an independent plan, or if the participation of an AFDC-E recipient is part of a local office approved training plan, WAC 388-24-090(1)(c), 388-57-025 and 388-57-030 are applicable.

(3) An AFDC-R recipient is required to participate only if assigned by WIN. [Order 975, § 388-52-166, filed 10/11/74.]

**WAC 388-52-169 Treatment of recipient's income from CETA.** (1) An individual receiving a CETA basic training allowance shall not concurrently receive an AFDC or continuing general assistance grant.

(2) For incentive payments and wages under Title I of CETA see WAC 388-28-570(2)(b) and 388-28-515(2)(c).

(3) For payments received from CETA for training expenses see WAC 388-28-578(1).

(4) If payments are received from CETA for purposes other than those cited in subsections (1), (2), and (3), WAC 388-28-578 is applicable.

(5) For wages and salaries received for public service employment under CETA see WAC 388-28-570(2)(b)(i). [Order 975, § 388-52-169, filed 10/11/74.]

**WAC 388-52-172 Release of information to prime sponsors of CETA program.** When information in regard to an individual's public assistance status is requested from CETA staff, the policies in WAC 388-48-010, 388-48-030, and 388-48-070 are applicable. [Order 975, § 388-52-172, filed 10/11/74.]

## Chapter 388-53 WAC

### DISASTER AND RELIEF PROGRAM— INDIVIDUAL AND FAMILY GRANT

#### WAC

388-53-010	Purpose.
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**WAC 388-53-010 Purpose.** The purpose of this plan is to set forth the administrative procedures and describe the organization for implementing the individual and family grant program subsequent to a major disaster declaration by the president. The governor of Washington has designated the state department of emergency services as the responsible state coordinating agency. The department of social and health services by agreement, will administer the individual and family grant program in Washington. [Order 1104, § 388-53-010, filed 3/11/76.]

**WAC 388-53-020 Definitions.** (1) "Secretary" shall mean the secretary of the department of social and health services. "Director" is the director of the department of emergency services.

(2) "Department" shall mean the department of social and health services, or the department of emergency services, whichever applies.

(3) "Act" shall mean chapter 113, Laws of 1975, 1st ex. sess.,

(4) "Administrative plan" is the individual and family grant program.

(5) "Necessary expense" means the cost of an item or service essential to an individual or family to mitigate or overcome an adverse condition caused by a major disaster.

(6) "Serious need" means a requirement for an item or service essential to an individual or family to prevent or reduce hardship, injury, or loss caused by a major disaster.

(7) "Family" means a social unit comprised of husband, and wife and dependents, if any, or a head of household, as these terms are defined in the Internal Revenue Code of 1954.

(8) "Individual" means a person who is not a member of a family as defined in subsection (7).

(9) "Assistance from other means" means assistance including monetary or in-kind contributions from other governmental programs, insurance, voluntary or charitable organizations, or from any sources other than those of the individual or family.

(10) "Federal coordinating officer" (FCO) means the person appointed by the administrator, FDAA, to coordinate federal assistance in a major disaster.

(11) "State coordinating officer" (SCO) means the individual appointed by the governor to coordinate state and local disaster assistance efforts with those of the federal government.

(12) "Administrative panel" means a group consisting of representatives from the department of social and health services and the department of emergency services, that determines eligibility for a grant and grant amount. [Order 1104, § 388-53-020, filed 3/11/76.]

**WAC 388-53-030 Authorization of program.** The program is authorized by Public Law 93-288 (the Disaster Relief Act of 1974) and Federal Disaster Assistance Administration Regulations 24 CFR 2205. Section 408 of Public Law 93-288 provides for grants to individuals and families, who as a result of a presidentially

declared major disaster, are unable to meet disaster-related "necessary expenses" or "serious needs" up to \$5,000.00. Chapter 113, Laws of 1975, 1st ex. sess. places responsibility for determining eligibility standards for grants to individuals and families with the department of social and health services. [Order 1104, § 388-53-030, filed 3/11/76.]

**WAC 388-53-040 Administrative procedures.** The SCO will be the governor's authorized representative for the implementation of the individual and family grant program.

(1) The state department of emergency services has been designated by the governor as the responsible state coordinating agency to administer the provisions of the Federal Disaster Laws. Public Law 93-288, Section 408 provides for grants to individuals and families up to \$5,000.00 - 75% federal and 25% state funds.

(2) The department of emergency services, acting as the designated responsible state coordinating agency, will arrange for the state share (25%) of funding and secure the 75% federal matching in conformity with Public Law 93-288.

(3) The department of emergency services shall be responsible for preparing the governor's request for an advance of the state's share of funds in accordance with Section 2205.48 (h), Advance of State Share, Federal Disaster Assistance Administration, Department of Housing and Urban Development Rules and Regulations, May 28, 1975.

(4) The department of social and health services has been requested by the department of emergency services to administer the individual and family grant program (Section 308, Public Law 93-288). Chapter 113, Laws of 1975, 1st ex. sess., makes the department of social and health services responsible for establishing eligibility standards for applicants for assistance under the grant program.

(5) The department of social and health services shall receive the maximum allowance of 3% for administration of the program as set out in Section 308, Item (d) 14, Public Law 93-288.

(6) Upon the declaration of a major disaster, the state coordinating officer, department of emergency services and the emergency welfare planning and continuity office (emergency welfare coordinator), department of social and health services, shall coordinate the necessary actions to place in operation the provisions and administrative policies and procedures for grants to individuals and families.

(7) The media will be used widely to notify potential applicants of methods and procedures for application during and after the disasters; and appropriate outreach services will be provided by the department of social and health services or welfare-related agencies, civic or church groups normally providing such service in the area.

(8) The program will be administered in conformity with provisions of Sections 2205.13, 2205.15, 2205.18 and Subpart E of Section 2205.48 of Federal Disaster Assistance Regulations, May 28, 1975.

(9) Eligibility criteria will conform to Section 2205.48(c) and such requirements as the department of social and health services may require not inconsistent with the provision in the above listed sections of the federal regulations.

(10) The SCO will maintain close coordination with the FCO and provide him with such reports as he may require. [Order 1104, § 388-53-040, filed 3/11/76.]

**WAC 388-53-050 Eligibility for grants.** (1) General. In order to qualify for a grant under this section, an individual or family representative must certify:

(a) that application has been made to other available governmental programs for assistance to meet a necessary expense or serious need and that neither he nor they have been determined to be qualified for such assistance or, for demonstrated reasons, any assistance received has not satisfied any such necessary expense or serious need.

(b) that with respect to the specific necessary expense or serious need or portion thereof for which application is made, neither he, nor to the best of his knowledge, any member of his family, has previously received or refused assistance from other means.

(c) that should the individual or family receive a grant and assistance from other means later becomes available to meet the necessary expense or serious need, the individual or family shall refund to the state that part of the grant for which financial assistance from other means has been received.

(d) that individuals or families who incurred a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their residency in the major disaster area or within the state in which the major disaster had been declared.

(e) that individuals or families otherwise eligible for assistance under this section must obtain flood insurance, as required by Subpart E of FDAA Regulations 24 CFR 2205.

(f) that application must be filed within 60 days following the date on which the major disaster was declared except as follows:

Applications filed after the 60 day filing period, but within 90 days following the date on which the major disaster was declared will be reviewed by the secretary of the department of social and health services to determine whether the late filing was the result of extenuating circumstances or conditions beyond the control of the individual or family. If it is determined that good cause existed for late filing, the application will be accepted. If such determination cannot be made, the application will be rejected.

(g) Farmers, ranchers, and persons engaged in agriculture who are qualified to apply to the farmers home administration (FmHA), must submit proof of the denial of such loan assistance from the FmHA before they may be considered eligible for a grant under this section. If applicants have been denied such loan assistance because, in FmHA's determination, they are able to obtain necessary credit from other sources they will be considered ineligible for grant assistance for those items or

services for which assistance may be provided by the FmHA's emergency loan program.

(2) Eligible categories.

Assistance may be made available to meet necessary expenses or serious needs by providing essential items or services in the categories set forth below:

(a) Medical or dental.

(b) Housing. With respect to private owner-occupied primary residences (including mobile homes), grants may be authorized to:

(i) repair, replace, rebuild.

(ii) provide access,

(iii) clean or make sanitary, or

(iv) remove debris from such residences. Any debris removal will be limited to the minimum required to remove health hazards or protect against additional damage to the residence.

(c) Personal property.

(i) Clothing.

(ii) Household items, furnishings, or appliances.

(iii) Tools, specialized or protective clothing or equipment which are essential to or a condition of a wage earner's employment.

(iv) Repair, clean, or sanitize, any eligible personal property item.

(d) Transportation.

(i) Grants may be authorized to provide transportation by public conveyance provided that the requirement for this transportation was the direct result of the disaster.

(ii) Grants may be authorized to repair, replace or provide private transportation, if the loss or requirement for this transportation was the direct result of the disaster, and transportation by public conveyance is inadequate or unavailable.

(e) Funeral expenses. Grants for funeral expenses will be based on minimum expenditures for interment or cremation.

(3) Ineligible categories.

Assistance will not be made available for any item or service in the following categories.

(a) Business losses, including farm businesses.

(b) Improvements or additions to real or personal property.

(c) Landscaping.

(d) Real or personal property used exclusively for recreation.

(e) Financial obligations incurred prior to the disaster.

(f) Any necessary expense or serious need or portion thereof for which assistance was available from other means but was refused by the individual or family.

(4) Other categories. Should the state determine that an individual or family has an expense or need not specifically identified as eligible, the state shall provide a factual summary to the regional director, FDAA, and request a determination. [Order 1104, § 388-53-050, filed 3/11/76.]

**WAC 388-53-060 Allocation of funds.** (1) The Federal share of a grant to an individual or a family under this section shall be equal to 75 per centum of the actual cost of meeting such an expense or need and shall

be made only on condition that the remaining 25 per centum of such cost is paid to such individual or family from funds made available by a state. Where a state is unable immediately to pay its share, the president is authorized to advance to such state such 25 per centum share, and any such advance is to be repaid to the United States when such state is able to do so. No individuals and no family shall receive any grant or grants under this section aggregating more than \$5,000 with respect to any one major disaster.

(2) A state may expend not to exceed 3 per centum of any grant made by the President to it for expenses of administering grants to individuals and families under this section. [Order 1104, § 388-53-060, filed 3/11/76.]

**WAC 388-53-070 Expenditures and payments.** (1) Grant payments will be processed by means of state form A-19 (invoice voucher) appropriately coded to identify the charges to individuals and family grant program. Each voucher will be supported by attaching a copy of the approved grant application. The original approved grant application and a copy of the payment voucher will be filed in the case record folder.

(2) Vouchers will be transmitted to the central disbursements section daily through the usual transmittal procedures. Separate voucher transmittals will be made for individual and family grant program payments in order to expediate [expedite] priority processing of the payments. [Order 1104, § 388-53-070, filed 3/11/76.]

**WAC 388-53-080 Organization and functions.** All state agencies charged with responsibilities under this plan will insure compliance with Section 2205.13, Non-Discrimination in Disaster Assistance, and Section 2205.15, Duplication of Benefits, of the FDAA regulations.

(1) Notifying potential applicants. The secretary of the department of social and health services shall publicize the availability of the IFG program to potential applicants by:

(a) coordinating PIO activities with other agencies and the FCO;

(b) providing news releases to local and state newspapers, radio and television stations;

(c) notifying local governments, private welfare and welfare related agencies, civic and church groups; and

(d) establishing outreach programs.

(2) Establishing application centers.

The secretary of social and health services will staff the federal/state disaster assistance centers (DAC) for the purpose of accepting grant applications. Subsequent to the closing of the DAC's the secretary of social and health services will provide other locations for the purpose of accepting applications. In determining suitable locations, consideration should be given to:

(a) the location of disaster victims and their proximity to local state offices, and

(b) the number of disaster victims the office might be required to serve.

(3) Interviewing applicants, receiving grant applications.

(a) The secretary of social and health services will be responsible for interviewing applicants, receiving applications, and establishing case files. Applications will be taken for sixty days following a major disaster declaration from any disaster victim desiring to apply for grant assistance. The interviewer will fully explain the scope and purpose of the program to each applicant and will ensure that each applicant clearly identifies on his or her application the specific needs or expenses for which he or she is seeking assistance. It will also be clearly explained to the applicant that any approved grant will be used for the specific identified disaster related serious needs or expenses.

(b) An application will not be considered complete without the disclosure statement being signed.

(4) Verifying necessary expenses or serious needs.

(a) The secretary of social and health services will be responsible for verification of the necessary expenses and serious needs for which grant assistance has been requested. A field trip(s) will be made by a verifier as required, to verify the serious needs or necessary expenses for which grant assistance has been requested.

(b) The verifier will categorize the serious needs and necessary expenses into eligible categories and attach the necessary documentation to the verification form. The verification form will be attached to the application and will become a part of the case file. [Order 1104, § 388-53-080, filed 3/11/76.]

**WAC 388-53-090 Administrative panel.** (1) An administrative panel will review each application and determine eligibility and grant amounts. All determinations shall be made in accordance with the eligibility criteria of Section VII of the state plan and Attachment F, Guidance in Determining Grant Amounts.

(2) The Administrative Panel, consisting of two representatives of the department of social and health services and one representative appointed by the director of the department of emergency services (SCO), will review each application and determine eligibility and grant amounts. [Order 1104, § 388-53-090, filed 3/11/76.]

**WAC 388-53-100 Appeals.** The applicant may appeal any approval or denial decision of the grant application. In all cases, the approval/disapproval letter will inform the applicant of the right to appeal the decision to the appeals panel of the department of social and health services. Appeals must be made within 20 calendar days of receipt of the letter by the applicant. [Order 1104, § 388-53-100, filed 3/11/76.]

**WAC 388-53-110 State appeal panel.** Appeals will be considered within 15 calendar days of receipt by the secretary of the department of social and health services or his designee. All determinations by the secretary of the department of social and health services will be final and each applicant will be notified of the result of his or her appeal. Appeals will be made in writing to the chief, office of hearings, department of social and health services, Olympia, Washington. [Order 1104, § 388-53-110, filed 3/11/76.]

**WAC 388-53-120 Administrative plan review.** The director of the department of emergency services and the secretary of the department of social and health services will review, in coordination with the FDAA regional director, the state administrative plan for the individual and family grant program every January to insure compliance with state and federal laws and regulations and other FDAA program guidance. [Order 1104, § 388-53-120, filed 3/11/76.]

### Chapter 388-54 WAC FOOD ASSISTANCE PROGRAMS

#### WAC

- 388-54-405 Food stamp program—General provisions.
- 388-54-410 Application—Assistance household.
- 388-54-415 Nonassistance household.
- 388-54-420 Authorized representative.
- 388-54-425 Eligibility standards—General.
- 388-54-430 Eligibility standards—Residence.
- 388-54-432 Eligibility standards—Boarding house—Institution.
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- 388-54-550 Authorization to purchase.
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- 388-54-570 Ineligible receipt of food coupons—Liability for repayment.
- 388-54-575 Ineligible receipt of food coupons—Collection of claim.
- 388-54-580 Ineligible receipt of food coupons—Claim unpaid—Eligibility for food coupons.
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- 388-54-590 Cash refunds.
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- 388-54-700 Food distribution program—General provisions and coverage.
- 388-54-705 Food distribution program—Participation.
- 388-54-710 Food distribution program—Issuance of commodities.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-54-010 Eligibility and authorization. [Order 252, § 388-54-010, filed 11/1/67; Regulation 21.10, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-020 Eligible needy households—General. [Order 252, § 388-54-020, filed 11/1/67; Regulation 21.20, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-025 Eligible needy households—Recipients of public assistance grants. [Order 252, § 388-54-025, filed 11/1/67; Regulation 21.21, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-030 Eligible needy households—Nonrecipients of public assistance grants. [Order 252, § 388-54-030, filed 11/1/67; Regulation 21.22, filed 12/31/65, effective 2/1/66; Regulation 21.22, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-040 Student applicant. [Order 252, § 388-54-040, filed 11/1/67; Regulation 21.221, filed 12/31/65, effective 2/1/66; Regulation 21.221, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-045 Treatment of allowances provided under U.S. department of labor and other government-sponsored training programs. [Order 252, § 388-54-045, filed 11/1/67; Regulation 21.222, filed 12/31/65, effective 2/1/66.] Repealed by Order 350, filed 5/28/69.
- 388-54-060 Certification of eligibility—Recipient of continuing assistance or recipient in suspended grant status. [Order 252, § 388-54-060, filed 11/1/67; Regulation 21.31, filed 12/31/65, effective 2/1/66; Regulation 21.31, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-070 Recipient of noncontinuing assistance. [Order 252, § 388-54-070, filed 11/1/67; Regulation 21.32, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-080 Nonrecipient of assistance. [Order 252, § 388-54-080, filed 11/1/67; Regulation 21.33, filed 12/31/65, effective 2/1/66; Regulation 21.33, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-110 Authorization process—Recipient of continuing public assistance grant. [Order 252, § 388-54-110, filed 11/1/67; Regulation 21.41, filed 12/31/65, effective 2/1/66; Regulation 21.41, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-120 Authorization process—Recipient of noncontinuing assistance. [Order 252, § 388-54-120, filed 11/1/67; Regulation 21.42, filed 12/31/65, effective 2/1/66; Regulation 21.42, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-130 Authorization process—Persons not receiving assistance. [Order 252, § 388-54-130, filed 11/1/67; Regulation 21.43, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-140 Authorization process—Exceptions. [Order 252, § 388-54-140, filed 11/1/67; Regulation 21.44, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-150 Civil rights. [Order 252, § 388-54-150, filed 11/1/67; Regulation 21.50, effective 2/1/66, filed 12/31/65.] Repealed by Order 350, filed 5/28/69.
- 388-54-300 Food stamp program. [Order 429, § 388-54-300, filed 3/17/70; Order 252, § 388-54-300, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 543, filed 3/31/71, effective 5/1/71.
- 388-54-305 Food stamp program—General terms and conditions. [Order 429, § 388-54-305, filed 3/17/70; Order 343, § 388-54-305, filed 3/20/69; Order 252, § 388-54-305, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 543, filed 3/31/71, effective 5/1/71.
- 388-54-310 Food stamp program—Administration. [Order 429, § 388-54-310, filed 3/17/70; Order 315, § 388-54-



- 310, filed 10/31/68; Order 252, § 388-54-310, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 543, filed 3/31/71, effective 5/1/71.
- 388-54-315 Food stamp program—Eligibility standards. [Order 543, § 388-54-315, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-315, filed 1/22/71; Order 498, § 388-54-315, filed 12/2/70; Order 470, § 388-54-315, filed 8/19/70; Order 451, § 388-54-315, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-315, filed 3/17/70; Order 315, § 388-54-315, filed 10/31/68; Order 252, § 388-54-315, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-320 Food stamp program—Application—Certification—Review—Recertification—Cancellation. [Order 600, § 388-54-320, filed 9/8/71; Order 588, § 388-54-320, filed 8/18/71; Order 568, § 388-54-320, filed 5/19/71; Order 543, § 388-54-320, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-320, filed 1/22/71; Order 478, § 388-54-320, filed 9/8/70; Order 470, § 388-54-320, filed 8/19/70; Order 451, § 388-54-320, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-320, filed 3/17/70; Order 315, § 388-54-320, filed 10/31/68; Order 252, § 388-54-320, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-325 Food stamp program—Basis of coupon issuance. [Order 543, § 388-54-325, filed 3/31/71, effective 5/1/71; Order 451, § 388-54-325, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-325, filed 3/17/70; Order 252, § 388-54-325, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-330 Food stamp program—Issuance and sales of coupons. [Order 543, § 388-54-330, filed 3/31/71, effective 5/1/71; Order 491, § 388-54-330, filed 10/30/70, effective 12/1/70; Order 451, § 388-54-330, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-330, filed 3/17/70; Order 252, § 388-54-330, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-335 Food stamp program—Payment of certain certification costs. [Order 252, § 388-54-335, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 429, filed 3/17/70.
- 388-54-340 Food stamp program—Civil rights assurance. [Order 543, § 388-54-340, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-340, filed 3/17/70; Order 252, § 388-54-340, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-345 Food stamp program—Nonassistance household—Income and resources standard. [Order 543, § 388-54-345, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-345, filed 3/17/70; Order 413, § 388-54-345, filed 12/23/69. Order 252, § 388-54-345, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-350 Food stamp program—Nonassistance household—Definitions. [Order 588, § 388-54-350, filed 8/18/71; Order 543, § 388-54-350, filed 3/31/71, effective 5/1/71; Order 470, § 388-54-350, filed 8/19/70; Order 429, § 388-54-350, filed 3/17/70; Order 252, § 388-54-350, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-355 Food stamp program—Hardship provisions. [Order 543, § 388-54-355, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-355, filed 1/22/71; Order 451, § 388-54-355, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-355, filed 3/17/70; Order 252, § 388-54-355, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-360 Food stamp program—Nonassistance household—Student applicant. [Order 600, § 388-54-360, filed 9/8/71; Order 568, § 388-54-360, filed 5/19/71; Order 543, § 388-54-360, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-360, filed 1/22/71; Order 429, § 388-54-360, filed 3/17/70; Order 349, § 388-54-360, filed 5/28/69; Order 252, § 388-54-360, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-365 Food stamp program—Nonassistance household—Treatment of allowances from department of labor and other government sponsored training programs. [Order 543, § 388-54-365, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-365, filed 3/17/70; Order 379, § 388-54-365, filed 8/7/69; Order 325, § 388-54-365, filed 11/27/68; Order 315, § 388-54-365, filed 10/31/68; Order 252, § 388-54-365, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-370 Food stamp program—Nonassistance household—Treatment of earned income under Title 1 of elementary and secondary education act, amendments of 1966. [Order 543, § 388-54-370, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-370, filed 3/17/70; Order 325, § 388-54-370, filed 11/27/68; Order 315, § 388-54-370, filed 10/31/68; Order 252, § 388-54-370, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-375 Food stamp program—Nonassistance household—Treatment of income from certain programs authorized or financed by economic opportunity act of 1964. [Order 543, § 388-54-375, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-375, § 388-54-375, filed 3/17/70; Order 325, § 388-54-375, filed 11/27/68; Order 315, § 388-54-375, filed 10/31/68; Order 252, § 388-54-375, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-376 Food stamp program—Nonassistance household—Treatment of earned income—Child or adult AFDC recipient. [Order 600, § 388-54-376, filed 9/8/71; Order 543, § 388-54-376, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-376, filed 3/17/70.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-377 Food stamp program—Ineligible receipt of food coupons. [Order 543, § 388-54-377, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-377, filed 3/17/70; Order 349, § 388-54-377, filed 5/28/69; Order 325, § 388-54-377, filed 11/27/68; Order 283, § 388-54-377, filed 3/6/68.] Repealed by Order 568, filed 5/19/71.
- 388-54-378 Food stamp program—Unused coupons—Disposition. [Order 543, § 388-54-378, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-378, filed 3/17/70; Order 330, § 388-54-378, filed 1/8/69; Order 283, § 388-54-378, filed 3/6/68.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-380 Food stamp program—Monthly basis of issuance—Continuing and noncontinuing assistance households. [Order 252, § 388-54-380, filed 11/1/67; Supp. Food Stamp Plan (part), filed 12/31/65.] Repealed by Order 451, filed 5/20/70, effective 6/15/70.
- 388-54-385 Food stamp program—Net monthly income basis of coupon issuance table. [Order 543, § 388-54-385, filed 3/31/71, effective 5/1/71; Order 451, § 388-54-385, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-385, filed 3/17/70; Order 343, § 388-54-385, filed 3/20/69; Order 252, § 388-54-385, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-390 Food stamp program—Ineligible receipt of food coupons. [Order 568, § 388-54-390, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-393 Food stamp program—Ineligible receipt of food coupons—Liability for repayment. [Order 568, § 388-

- 54-393, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-396 Food stamp program—Ineligible receipt of food coupons—Collection of claims. [Order 568, § 388-54-396, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-399 Food stamp program—Ineligible receipt of food coupons—Eligibility—claim unpaid. [Order 568, § 388-54-399, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-450 Eligibility standards—Tax dependents. [Order 660, § 388-54-450, filed 2/23/72, effective 4/1/72.] Repealed by Order 734, filed 11/9/72.
- 388-54-482 Tax reduction act of 1975 payments disregarded. [Order 1028, § 388-54-482, filed 5/29/75.] Repealed by Order 1121, filed 5/26/76. Later promulgation, see WAC 388-54-462.

**WAC 388-54-405 Food stamp program—General provisions.** (1) The department of social and health services shall administer the food stamp program in accordance with an approved plan with the food and nutrition service (FNS) of the United States department of agriculture.

(2) Rules in this chapter are for the purpose of carrying out certain requirements for participation in the program. Unless specifically provided for in this chapter, rules and definitions in other chapters of Title 388 WAC do not apply to provisions of chapter 388-54 WAC.

(3) The use or disclosure of information obtained from applicant households shall be restricted to persons directly connected with the administration and enforcement of the food stamp program of the food and nutrition service. Names and addresses of participating households may be made available to persons directly connected with nutrition education and outreach efforts. The provisions of chapter 388-48 WAC shall also apply to recipients of food stamps.

(4) An application form for participation in the food stamp program must be provided to any person upon request and be accepted when submitted. An application for food stamps shall either be approved or denied within 30 days from the receipt of the identifiable application.

(5) The department shall provide any household, aggrieved by the action of the department or an issuing agency in its administration of the program which affects the participation of the household in the program, with a fair hearing upon its request. Chapter 388-08 WAC shall apply.

(6) In the certification of applicant households and in the issuance of food coupons to eligible households, there shall be no discrimination against any household because of race, religious creed, political beliefs, or national origin.

(7) During a presidentially declared disaster or a disaster declared by FNS, the department shall certify affected households in accordance with FNS instructions. [Order 1021, § 388-54-405, filed 4/29/75; Order 992, § 388-54-405, filed 12/31/74; Order 660, § 388-54-405, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-410 Application—Assistance household.** (1) A household in which all members are recipients of AFDC or GA shall be classified as an assistance household. A household consisting exclusively of

SSI recipients (or an SSI recipient and an essential person) and recipients of AFDC or GA shall be classified as an assistance household.

(2) The classification of an assistance household shall not be affected by the presence of a legally assigned foster child.

(3) An assistance household shall be certified solely on the basis of information in department files which supports eligibility for a financial grant supplemented as necessary by an approved affidavit.

(4) Verification shall not be required unless information submitted by the household is unclear, incomplete, or inconsistent. If information needed to determine household eligibility and the purchase requirement is not available in the case file, it shall be necessary to secure this information. [Order 931, § 388-54-410, filed 4/25/74; Order 660, § 388-54-410, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-415 Nonassistance household.** (1) A household which does not meet the criteria in WAC 388-54-410(1) shall be classified as a nonassistance household.

(2) Application for initial certification and recertification shall be as follows:

(a) The application shall be made on a form prescribed by the department and shall be signed by either the head of the household, the spouse, or the authorized representative.

(b) The application may be filled out by the applicant or anyone he chooses and may be completed in the office or mailed to the department.

(c) The department shall interview the head of the household, the spouse, or the authorized representative to determine that the application is correctly completed, to identify and clarify any inconsistencies, and to advise the household of its right to appeal a certification decision.

(i) Persons who are unable to come into the office to be interviewed may be interviewed in a home visit or by telephone. Inconvenience to the applicant shall not be sufficient reason for conducting the interview by telephone. [Order 660, § 388-54-415, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-420 Authorized representative.** (1) An authorized representative

(a) shall be a person designated by the head of the household or spouse to act on the household's behalf in the application for and/or purchase of coupons, and

(b) shall also mean a private nonprofit organization or institution conducting a drug addiction or alcoholic treatment and rehabilitation center which acts on behalf of eligible persons who reside at the center.

(2) When it is impossible for the head of the household or the spouse to make application, another responsible member of the household may do so. When household members are unable to perform these duties because of employment, health, transportation problems, etc., an adult outside the household may apply for the household.

(3) The following criteria shall apply when someone other than the head of the household or spouse makes application; except, when a private nonprofit organization or institution, as described in subsection (1)(b), makes application on behalf of resident narcotic addicts or alcoholics, the criteria outlined in WAC 388-54-452 shall apply.

(a) The head of the household or his spouse cannot be interviewed.

(b) The authorized representative has been designated in writing by the head of the household or spouse. This written designation shall contain justification for the arrangement and shall be recorded.

(c) The authorized representative is adequately aware of pertinent household circumstances.

(d) Only when there is a bona fide need shall an authorized representative make application for more than one household.

(4) The authorized representative designated by the head of the household or spouse for purchasing coupons may be the same person who made application for the household or it may be a different person. Designation shall be made at the time the application is completed and the name shall appear on the identification card.

(5) The authorized representative or another person selected by the head of the household or spouse, for example, other household members or person outside the household, may use coupons to purchase eligible food on behalf of the household provided such person has the household's identification card with the full knowledge and consent of the head of the household or spouse.

(6) A retailer who is authorized to accept food coupons or an employee of the department may not act for a household in applying or in purchase of coupons or food without the specific approval of the local office administrator following a determination that no one else is available to serve.

(7) A multi-household authorized representative may act on behalf of more than one household when the department determines there is a bona fide need. [Order 992, § 388-54-420, filed 12/31/74; Order 660, § 388-54-420, filed 2/23/72, effective 4/1/72.]

#### **WAC 388-54-425 Eligibility standards—General.**

(1) An assistance household shall be eligible to participate without regard to the income and resources of the household members, but must meet all other eligibility standards in this chapter except as provided in subsection (5).

(2) A nonassistance household must meet all eligibility standards in this chapter.

(3) If consideration of the eligibility standards produces no inconsistent, unclear, or incomplete information, a conclusion of eligibility may be justified without verification except where specified in WAC 388-54-505(1).

(4) Eligibility cannot be determined if the applicant household refuses to cooperate in providing information necessary to make a determination of eligibility or ineligibility.

(5) If otherwise eligible, a household consisting solely of SSI recipients or of an SSI recipient and an essential

person shall be eligible to participate in the program without regard to the income and resources of the household. [Order 931, § 388-54-425, filed 4/25/74; Order 660, § 388-54-425, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-430 Eligibility standards—Residence.** (1) An applicant must live in the project area in which applying.

(a) An applicant who maintains a residence in the project area for any purpose other than a vacation, regardless of the length of residence in the project area, shall be considered as living in the project area.

(b) An applicant must be a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law as described in WAC 388-26-120. The presence of an ineligible alien in a household shall not prevent the remainder of the household from receiving food stamp benefits if otherwise eligible.

(2) Residence shall not be construed to mean domicile.

(3) Intent to permanently remain in the state is not a condition of eligibility. There shall be no durational residence requirement.

(4) Moving from the project area will terminate eligibility in that project area except for the 60 day continuation period provided in WAC 388-54-535.

(5) The applicant shall provide a physical address and a mailing address if that is different from the physical address. [Order 992, § 388-54-430, filed 12/31/74; Order 660, § 388-54-430, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-432 Eligibility standards—Boarding house—Institution.** (1) A resident of a boarding house or institution shall not be eligible.

(a) "Boarding house" means a place where three or more individuals are furnished meals or lodging and meals for compensation.

(b) An individual shall be considered a resident of an institution when the institution provides prepared meals as a part of its normal services unless the individual purchases and prepares his own food, or participates in a delivered meals program, or a communal dining program.

(c) Residents of federally subsidized housing for the elderly, (built under section 202 of the Housing Act of 1959 or section 236 of the National Housing Act) shall not be considered residents of an institution.

(d) Any narcotics addict or alcoholic residing at a facility or treatment center under the supervision of a private nonprofit organization or institution meeting the criteria outlined in WAC 388-54-452(1) shall not be considered a resident of an institution or boarding house. [Order 992, § 388-54-432, filed 12/31/74; Order 660, § 388-54-432, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-435 Eligibility standards—Cooking facilities.** (1) The applicant must have cooking facilities which are used to prepare food for home consumption, unless he is exempted as outlined below. The applicant

need not have a formal or conventional kitchen but must have the means available to prepare simple cooked meals.

(2) The following households are not required to have cooking facilities:

(a) A person 60 years of age or over who is not a resident of an institution or boarding house, who is living alone or only with his spouse, and who elects to use coupons to purchase meals at a communal dining facility as described in WAC 388-54-448;

(b) A person who qualifies for meal delivery service as described in WAC 388-54-445;

(c) A narcotics addict or alcoholic who is certified as a resident of a drug addiction or alcoholic treatment and rehabilitation center as described in WAC 388-54-452 and who elects to use coupons at such a center. [Order 992, § 388-54-435, filed 12/31/74; Order 660, § 388-54-435, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-440 Eligibility standards—Household determination.** (1) Eligibility for and participation in the program shall be on a household basis.

(2) In determining whether or not an individual or group of individuals is a household, the following definitions shall apply:

(a) "Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation. A roomer shall not be considered a household member in determining eligibility and the basis of coupon issuance.

(b) "Boarder" means an individual to whom a household furnishes meals, or meals and lodging, for compensation at a monthly rate which at least equals the value of the monthly coupon allotment for a one-person household.

(i) Boarders shall not be considered household members in determining eligibility and the basis of coupon issuance.

(ii) Persons receiving meals and lodging but not making the minimum payment shall be treated as household members, and all their income and resources shall be counted in determining eligibility.

(iii) Persons receiving board only but not making the minimum payment will not be considered members of the household, and their total board payment will be included as household income.

(c) "Attendant" means an individual necessary for medical, housekeeping, or child care reasons. An attendant shall not be considered a member of the household in determining eligibility and the basis of coupon issuance.

(d) "Economic unit" means that the common living expenses are shared from the income and resources of all members and that the basic needs of all members are provided for without regard to their ability or willingness to contribute.

(e) "Head of household" means the person in whose name application is made for participation in the program. Such individual must be a household member except that, if the only adult member of an economic unit is an ineligible alien, this person may make application on behalf of the household of minors as the head of the household.

(3) To be eligible for food stamps a household must meet the criteria for a single-person or multi-person household.

(a) The applicant who lives alone or only with roomers, boarders, a live-in attendant, or a person(s) not in the applicant's economic unit, shall be considered a single-person household, provided he purchases and prepares food for home consumption or is eligible to participate in a delivered meals program or a communal dining program. A narcotics addict or alcoholic who is a resident of a drug addiction or alcoholic treatment and rehabilitation program as described in WAC 388-54-452 shall also be considered a single-person household.

(b) Individuals living together in common living quarters shall be considered a multi-person household provided they purchase and store food in common for home consumption and live as an economic unit. [Order 1063, § 388-54-440, filed 10/23/75; Order 1021, § 388-54-440, filed 4/29/75; Order 992, § 388-54-440, filed 12/31/74; Order 809, § 388-54-440, filed 6/15/73; Order 704, § 388-54-440, filed 8/11/72; Order 685, § 388-54-440, filed 5/25/72; Order 660, § 388-54-440, filed 8/11/72.]

**WAC 388-54-442 Student tax dependents.** (1) No student shall be considered a household member for food stamp program purposes if the student:

(a) Is 18 years of age or older, and

(b) Is enrolled and attending at least half-time an institution recognized by a federal, state or local government agency as providing post-high school education, and

(c) Is properly claimed as a tax dependent for federal income tax purposes by a taxpayer member of another household not eligible to participate in the food stamp program. "Properly claimed tax dependent" means that the taxpayer provides more than half of the student's support during the calendar year in which the student makes application.

(2) When a student meeting the criteria in subsection (2) declares himself to be a tax dependent, the food stamp eligibility of the taxpayer household must be verified.

(a) Student tax dependency status shall be verified when questionable.

(b) If the tax dependent or the taxpayer fails to respond to a verification request, eligibility cannot be determined, and he shall not be considered as a member of the household in which he resides.

(c) A tax dependent denied participation in the food stamp program shall, through the fair hearing process, have an opportunity to establish eligibility by demonstrating that he is not a properly claimed tax dependent.

(3) The remainder of the household in which the tax dependent resides may be certified, if otherwise eligible.

(a) The income and resources of an individual determined ineligible due to tax dependency is not considered available to other household members in establishing the household's eligibility and basis of issuance.

(b) The tax dependent's presence in the household shall not be considered in determining the food stamp allotment. [Order 1030, § 388-54-442, filed 6/12/75.]

**WAC 388-54-445 Eligibility standards—Delivered meals.** (1) In order to purchase meals from a non-profit meal delivery service authorized by FNS, a person:

- (a) Must be 60 years of age or over, and
- (b) Must be housebound, feeble, physically handicapped or otherwise disabled to the extent that he is unable to adequately prepare all his meals, and
- (c) There must be a meal delivery service authorized by FNS servicing the project area.

(2) If a person does not have cooking facilities he may be eligible for the program if he meets the criteria in subsection (1), and

- (a) Lives alone or only with spouse or roomer,
- (b) Plans to receive meals delivered by an organization authorized by FNS.

(3) The spouse of a person who meets the criteria in subsection (2) will also be eligible to receive delivered meals. The spouse need not be 60 years of age or over. [Order 660, § 388-54-445, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-448 Eligibility standards—Communal dining.** (1) Any member of any eligible household who is 60 years of age or older may use all or any part of his coupons to purchase meals at a communal dining facility.

(2) If the person 60 or over lives only with a spouse, the spouse may also purchase meals from a communal dining facility regardless of age.

(3) The communal dining facility must be authorized by FNS to accept food coupons. [Order 992, § 388-54-448, filed 12/31/74.]

**WAC 388-54-452 Eligibility standards—Drug-alcohol treatment programs.** (1) A narcotics addict or alcoholic who regularly participates in a drug or alcoholic treatment program on a resident or nonresident basis may use food coupons to purchase food prepared for or served to him during the program, provided

(a) The program is administered by a private non-profit organization or institution which has been certified by the state as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics; and

(b) The treatment center operated by the nonprofit organization or institution has cooking facilities available to the participants, or has been authorized by FNS to accept food coupons for meals served at the center.

(2) A resident participant shall be certified only under the following conditions:

(a) He must voluntarily elect to participate in the food stamp program;

(b) He must be certified through the center as his authorized representative, and both the participant and the authorized representative must sign the application form;

(c) Each participant shall be certified as a one-person household;

(d) A nonassistance participant must meet the same income and resource standards as other nonassistance

households. A public assistance or SSI participant is eligible to participate without regard to income or resources.

(3) The drug or alcohol treatment center which acts as the authorized representative must agree to the following conditions:

(a) The center must spend the coupon allotment for meals prepared by or served to the addict or alcoholic;

(b) The center must notify the local office of changes in the participant's income resources or household circumstances and when the addict or alcoholic leaves the treatment center, within ten days of the change;

(c) The center shall be responsible for any misrepresentation or fraud committed in the certification of center residents and shall assume total liability for food coupons held on behalf of resident recipients. [Order 992, § 388-54-452, filed 12/31/74.]

**WAC 388-54-455 Eligibility standards—Work registration requirement.** (1) Each able-bodied individual between the ages of 18 and 65, including one who is not working because of a strike or lockout at his usual place of employment, is required to register for employment with the state employment service except the following individuals:

(a) A mother or other member of the household who has responsibility for the care of dependent children under 18 years of age, or of incapacitated adults,

(b) A student who is enrolled at least half-time (as defined by the institution or program in which enrolled) in any school or training program which is recognized by any federal, state, or local government agency,

(c) A person who is employed at least 30 hours per week,

(d) A person who is physically or mentally incapable of engaging in gainful employment,

(e) A self-employed person who would be certified for one year where the department determines that the employment constitutes a full-time job,

(f) Any narcotics addict or alcoholic who regularly participates as a resident or nonresident in a drug or alcoholic treatment and rehabilitation program.

(2) A member of a household who is required to register for employment shall do so at the time of initial certification and at subsequent recertifications. Reregistration will not be required when the department determines that the food stamp work registration on file with the employment service is less than six months old and the information is unchanged.

(3) The applicant's statement concerning the employability of each member of the household shall be accepted unless the information is questionable.

(4) The department shall determine which household members meet the exception to the registration requirement at the time of initial certification, recertification, change in employment status, or required six-month registration period.

(5) Where any question of the propriety of exemption from the work requirement arises, the head of the household and the household member must cooperate in

furnishing evidence to support the contention of exemption from the requirement to register. Failure to cooperate in furnishing such evidence shall result in the member being required to register.

(6) Each member required to register for employment shall also be required to:

(a) Report for an interview to office where he is registered upon reasonable request,

(b) Respond to a request from the employment service office requiring supplemental information regarding employment status or availability for work,

(c) Report to an employer to whom he has been referred by such office,

(d) Accept a bona fide offer of suitable employment to which he is referred by such office.

(e) Continue suitable employment to which he was referred by such office; until the employment is no longer considered suitable, he becomes exempt, or he is terminated from employment due to circumstances beyond his control.

(7) If the department finds that a registrant failed to comply with subsection (6) without good cause, the household shall be ineligible for participation in the program until the registrant complies, or for one year, whichever is earlier.

(a) In determining whether good cause existed for failure to comply, all facts and circumstances shall be considered including those submitted by the employment office as existing at the time of the alleged failure. "Good cause" includes circumstances beyond the member's control, such as but not limited to, illness, illness of another household member sufficiently serious to require the presence of the member, unavailability of transportation, and unanticipated emergency.

(8) Employment offered will be considered unsuitable for any registrant if:

(a) The wages offered are less than

(i) The applicable state or federal minimum wage,

(ii) The applicable wage established by a valid regulation of the federal government authorized by existing law to establish such regulations, or

(iii) \$1.30 per hour if there is no applicable wage as described in items (a)(i) and (ii) of this subsection.

(b) The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably be expected to earn is less than the hourly wages specified in subsection (a),

(c) The registrant, as a condition of employment, is required to join, resign from, or refrain from joining any legitimate labor organization, or

(d) The work offered is at a site subject to a strike or a lockout at the time of the offer, except that the term "strike" shall not include a strike which has, pursuant to a court decision currently in force, been determined to be unlawful.

(9) No employment offered shall be considered suitable for a particular registrant without a determination by the local office which considers each of the following criteria:

(a) The degree of risk to the registrant's health and safety is not unreasonable,

(b) The registrant is physically and mentally fit to perform the employment offered. This may be obvious or may be established by documentary medical evidence or reliable information obtained from other sources,

(c) The employment offered is in the registrant's major field of experience unless, after a period of 30 days from registration, job opportunities in his major field have not been offered.

(d) The distance of the employment from the registrant's residence is not unreasonable based upon estimates of the time required for going to and from work by means of transportation that is available or expected to be used, and whether or not it would be reasonable for the registrant to expend the time and cost involved for the expected remuneration from the work. In no event will commuting time per day represent more than 25 percentum of the registrant's total work time.

(10) When a household has been determined ineligible due to a member's refusal to comply with the work registration requirements, eligibility may be re-established (provided the household is otherwise eligible) upon the expiration of the one year suspension or upon the member's compliance. [Order 992, § 388-54-455, filed 12/31/74; Order 660, § 388-54-455, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-460 Nonassistance household—Resources—Standards—Exemptions.** (1) A nonassistance household having nonexempt resources in excess of the following amounts shall not be eligible:

(a) \$3,000 for all households with two or more persons which include at least one member age 60 or over whose resources are not excluded under subdivision (2)(e),

(b) \$1,500 for all other households.

(c) The resources of ineligible aliens, who are not excluded as roomers, boarders, or attendants, shall be treated as any other household resource in determining allowable exemptions and the total value of resources available to the family. However, ineligible aliens will not be counted as household members for the purpose of determining the resource eligibility limit.

(d) The resources of an individual determined to be ineligible due to tax dependency shall not be considered available to other household members, nor shall he be counted as a household member in determining the resource eligibility limits. (See WAC 388-54-442)

(2) The following shall not be considered as resources:

(a) The home and lot normal to the community and one currently licensed vehicle,

(b) Personal effects (clothing, jewelry, etc.) and household goods (furniture, appliances, etc.),

(c) Cash value of life insurance policies and pension funds,

(d) Property producing income consistent with its fair market value or other property essential to self-support, such as vehicles needed for employment, tools of a tradesman, machinery, livestock or land of a farmer, goods, property, etc., used by self-employed persons,

(e) Resources of roomers, boarders, or live-in attendants,

(f) Payments under Title II of the Uniform Relocation Assistance and Real Properties Acquisition Act of 1970,

(g) Indian lands held jointly with the tribe or land that can be sold only with the approval of the bureau of Indian affairs,

(h) Money which has been prorated or averaged as income for self-employed persons or students,

(i) The cash value of resources not accessible to the household, such as, but not limited to, irrevocable trust funds, property in probate, and notes receivable which cannot be readily liquidated.

(j) Any payments received by Alaska Natives under the terms of the Alaska Native Claims Settlement Act.

(3) The following shall be considered as resources.

(a) Liquid resources which are readily negotiable such as cash on hand or in checking or savings account, or other savings institution, U.S. savings bonds, stocks and bonds, notes receivable, mortgages and sales contracts,

(b) Nonliquid resources such as real property (buildings, land, etc.) and personal property (boats, aircraft, etc.) which are not exempted by subsection (2),

(c) Any other resources not exempted by subsection (2).

(4) The monetary value of liquid and nonliquid resources shall be their current redemption rate or fair market value less encumbrances. The value of the household's resources shall be based on statements given by the applicant.

(5) Public assistance rules and procedures may be used to verify or determine the value of real or personal property, when such a rule or procedure is designed to compute the fair market value. The determination that property is producing income consistent with its fair market value or is essential to self-support shall be determined by the certification worker. [Order 1136, § 388-54-460, filed 7/29/76; Order 1030, § 388-54-460, filed 6/12/75; Order 1021, § 388-54-460, filed 4/29/75; Order 992, § 388-54-460, filed 12/31/74; Order 660, § 388-54-460, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-462 Earned income tax credit disregarded.** The earned income tax credit provided for in Public Law 94-164, The Revenue and Adjustment Act of 1975, shall be disregarded as income or resources in determining eligibility for the food stamp program for the month in which the refund is received or any month thereafter.

(1) The disregard shall be allowed only to a household which received food stamps during the month before the month in which the refund is received.

(2) In order to receive the disregard, the food stamp recipient shall provide a copy of his income tax return, Form 1040 or 1040A, from which the amount of his tax credit can be determined. [Order 1175, § 388-54-462, filed 12/8/76; Order 1121, § 388-54-462, filed 5/26/76.]

**WAC 388-54-465 Nonassistance household—Nonrecurring lump-sum payments** (1) Monies received from insurance settlements; sale of property, except for

property related to self-employment; cash prizes, awards and gifts, except those for support, maintenance, or the expenses of education; inheritances; all retroactive lump-sum social security or railroad retirement pension payments, income tax refunds, or similar nonrecurring lump-sum payments shall be treated as a resource in determining nonassistance household eligibility.

(2) Recipients are required to report the receipt of lump sum payments within ten days of receipt. Local offices are required to take appropriate action within ten days of receipt of information about a lump sum payment.

(a) If the amount of the lump sum plus the amount of resources listed on the application does not exceed the resource limitation, the information is documented in the case record. No other action is required.

(b) If the total amount does exceed the allowable resource limitation, the household shall be given an opportunity to update its entire resource statement. If it declines to do so or if the resources still exceed the limit, the local office shall take action to terminate the certification according to WAC 388-54-525. [Order 992, § 388-54-465, filed 12/31/74; Order 660, § 388-54-465, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-470 Monthly net income.** (1) For nonassistance households the monthly net food stamp income used to determine eligibility and basis of issuance shall be computed by adding all income and then subtracting all appropriate exclusions and deductions.

(2) The monthly net income used for basis of issuance of food stamps to public assistance households shall be computed by adding all income and then subtracting all appropriate exclusions and deductions.

(3) The combined monthly net food stamp income of all members of nonassistance households shall not exceed the following standards effective July 1, 1977.

Household Size	Maximum Allowable Income
1	\$262.00
2	344.00
3	447.00
4	567.00
5	673.00
6	807.00
7	893.00
8	1020.00
For each additional member add	127.00

(4) Ineligible aliens, unless excluded as roomers, boarders or attendants, shall have their total income, minus a deduction for a one-person household coupon allotment, included as income to the household, unless the household can demonstrate that the income is not accessible for their needs. Ineligible aliens shall be treated as household members in determining income exclusions and deductions, but shall not be counted in the household size for determining the income eligibility standard for the household or its basis of issuance.

(5) The income of an individual determined ineligible due to tax dependency shall not be considered available to other household members in establishing the household's eligibility and basis of issuance, nor shall he be counted in determining the size of the household. (See WAC 388-54-442) [Order 1249, § 388-54-470, filed 10/28/77; Order 1153, § 388-54-470, filed 9/22/76; Order 1091, § 388-54-470, filed 1/28/76; Order 1039, § 388-54-470, filed 8/7/75; Order 1030, § 388-54-470, filed 6/12/75; Order 1007, § 388-54-470, filed 2/13/75; Order 992, § 388-54-470, filed 12/31/74; Order 966, § 388-54-470, filed 8/29/74; Order 889, § 388-54-470, filed 12/27/73; Order 803, § 388-54-470, filed 5/31/73; Order 687, § 388-54-470, filed 6/1/72; Order 660, § 388-54-470, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-475 Definitions of income.** (1) Income shall mean

(a) All compensations for services performed as an employee;

(b) Net income from self-employment, which shall be the total gross income from such enterprise (including the total gain received from the sale of any capital goods or equipment related to such enterprise) less the cost of producing that income;

(c) The total amount of a roomer's payment to the household;

(d) The total payment received from each boarder less the amount of the coupon allotment for a one-person household for each boarder; except as specified in WAC 388-54-440(2)(b)(ii) and (iii).

(e) Deleted;

(f) The total payment to a household on behalf of a legally-assigned foster child;

(g) An annuity, pension, retirement or disability benefit; veterans', workmen's, or unemployment compensation; and old-age, survivors', or strike benefits;

(h) Payments received from federally-aided public assistance programs, general assistance programs, or other assistance programs based on need;

(i) Payments received from government sponsored programs such as agricultural stabilization and conservation service programs, the work incentive program, or the manpower training programs;

(j) Payments in money, except those for medical costs, made on behalf of the household by a person other than a member of the household. If the major benefit of the payment accrues to the payer and not the household, such benefits shall be considered income-in-kind and not income to the household;

(k) Cash gifts or awards for support, maintenance, or the expenses of education;

(l) Scholarships, educational grants (including loans on which repayment is deferred until completion of the applicant's education) fellowships, and veteran's educational benefits. Such income shall be prorated over the period which it is intended to cover;

(m) Support and alimony payments as received;

(n) Rent, dividends, interest, royalties, and all other payments except loans (other than deferred payment

loans to students) from any source whatever which may be construed to be a gain or benefit.

(o) The actual value of housing received by a household member from his employer as income-in-kind, in lieu of or supplemental to his income. In no case shall more than \$25.00 of the actual value be considered income to any one household. The value assigned to the housing shall be its rental value. No value will be assigned to in-kind housing which has been condemned or declared substandard under federal, state or local housing codes. [Order 1153, § 388-54-475, filed 9/22/76; Order 992, § 388-54-475, filed 12/31/74; Order 704, § 388-54-475, filed 8/11/72; Order 685, § 388-54-475, filed 5/25/72; Order 660, § 388-54-475, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-480 Income exclusions.** The following shall not be considered as income to the household:

(1) Income received as compensation for services as an employee or income from self-employment by a child residing in the household who is under 18 years of age and attending at least half time (as defined by the institution), a kindergarten or preschool, a grade school, high school, vocational school, technical school, training program college or university. This exclusion shall not apply if the student is an emancipated minor or living alone as he no longer can be considered a child residing in the household.

(2) Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970:

(a) Payments to persons displaced as a result of the acquisition of real property,

(b) Relocation payments to a displaced homeowner toward the purchase of a replacement dwelling provided the homeowner purchases and occupies a dwelling within one year following displacement,

(c) Replacement housing payments to displaced persons not eligible for a homeowner's payment.

(3) Payments made under the Domestic Volunteer Services Act of 1973 to volunteers participating in the ACTION program.

(4) Income which is received too infrequently or irregularly to be reasonably anticipated as available during a three-month period, provided such infrequent or irregular income of all household members shall not exceed \$30 in a three-month period.

(5) Any gain or benefit which is not in money, such as produce from a garden etc., except for shelter from an employer as described in WAC 388-54-475(1)(o).

(6) Payments in money for medical costs made on behalf of the household by a person other than a member of the household.

(7) All loans, except loans on which repayment is deferred until completion of the applicant's education.

(8) All property conveyed to Indian tribes and all receipts therefrom under Public Law 94-114, Section 6, shall not be considered as income nor resources.

(9) Monies received from insurance settlements, sale of property (except property related to self-employment as previously provided for), cash prizes, awards, and



gifts (except those for support, maintenance, or the expense of education), inheritances, retroactive lump-sum social security and railroad retirement pension payments, income tax refunds, and similar nonrecurring lump-sum payments.

(10) Payments received under the women, infants and children (WIC) program.

(11) Payments which are reimbursements for expenses incurred in performing volunteer services for nonhousehold members.

(12) Any payments received by Alaska Natives under the terms of the Alaska Native Claims Settlement Act.

(13) Payments made to the representative payee who acts on behalf of beneficiaries who are unable to manage the payments. Only those representative payees who demonstrate the following conditions to the eligibility worker's satisfaction shall have the representative payments not included as income to their household:

(a) the beneficiary is not a member of the payee's household. (If the payee is a member of the beneficiary's household then the payment shall be counted once to the household).

(b) The payee uses the payment only for the beneficiary's care and maintenance.

(c) The payee cannot use the payment for any purpose other than the care of the beneficiary without legal liability.

(d) Representative payments shall be included, however, as income to the beneficiary's household. [Order 1194, § 388-54-480, filed 3/3/77; Order 1136, § 388-54-480, filed 7/29/76; Order 1021, § 388-54-480, filed 4/29/75; Order 992, § 388-54-480, filed 12/31/74; Order 966, § 388-54-480, filed 8/29/74; Order 871, § 388-54-480, filed 11/20/73; Order 660, § 388-54-480, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-485 Income deductions.** (1) Household expenses shall be deducted in the order listed in this section. In determining monthly food stamp income only the expenses listed shall be deducted. No exceptions shall be approved. The household must pay the expense or anticipate payment during the certification period in which the deduction is claimed. The expenses are deductible even if payment is made from resources. If payments are made by a nonhousehold member on behalf of the household, the expenses are deductible if the payments have been counted as income to the household.

(2) Deductible work expense

(a) Nonassistance household: Ten percent of gross income not to exceed \$30 per household, from:

(i) Compensation for services performed as an employee; or

(ii) A training allowance to an individual working and learning a trade at a work site.

(iii) Any income attributable to the furnishing of housing to a household by an employer. Any vendor payments made on behalf of an employee by an employer or a trainee by the training program or sponsor.

(b) Assistance household: The public assistance standard deduction for transportation and clothing. (See 388-28-515(4)(b) and (4)(d)).

(3) Mandatory deductions from earned income which are not elective at the option of the employee such as local, state, and federal income taxes, FICA taxes, mandatory retirement payments, and union dues. Garnishments may be deducted only when they are made for items which would be deductible if paid when incurred, for example, medical costs of more than \$10 a month.

(4) The total payments for medical expenses; exclusive of special diets, when the costs exceed \$10 per household.

(a) Medical expenses may include actual payments for physician and dental services, hospitalization, nursing care in or out of the home, prescription drugs, prescribed medical services, health insurance, medicare payments, the care and feeding of a seeing eye dog, and reasonable medically-related transportation costs.

(b) The amount to be deducted for an attendant or housekeeper who is necessary for medical care reasons shall be the amount actually paid to the attendant or housekeeper. In addition, for a household which furnishes the attendant or housekeeper the majority of his meals, a deduction equal to the value of the one-person monthly coupon allotment shall be made.

(5) Payments for the care of a child or other persons when necessary for a household member to accept or continue employment, training or education.

(a) The amount to be deducted for an attendant or housekeeper who is necessary for child care reasons shall be the amount actually paid to the attendant or housekeeper. In addition, for a household which furnishes the attendant or housekeeper the majority of his meals, a deduction equal to the one-person monthly coupon allotment shall be made.

(6) Tuition and mandatory fees for education, including such expenses which are covered by scholarships, educational grants, loans, fellowships and veterans' educational benefits. No deduction shall be made for any other educational expenses, such as books, school supplies, meals and transportation.

(7) Unusual expenses incurred due to an individual household's disaster or casualty losses which could not be reasonably anticipated by the household. Unusual expenses shall be determined in accordance with the following criteria.

(a) The expense is essential to the continued existence of the household and is necessary to replace or repair items of property damaged or lost through vandalism, fire, theft, flood, tropical storms, or by the elements.

(b) The expense allowed is for only that portion which exceeds the amount which is paid either in goods or money by a private or public charitable organization.

(c) The expense is the result of funeral costs which are not reimbursable through social security, veterans' benefits, or the state government.

(d) The expense allowed will be that paid or anticipated to be paid during the certification period, even though part may be reimbursable through insurance. Insurance reimbursement payments will be treated as lump-sum payments when received, in accordance with WAC 388-54-465.

(e) The deduction is initially approved by the certification worker's immediate supervisor.

(f) The expense is not for costs of repair or replacement of property, clothing, etc., which becomes necessary due to mechanical failure, wear and tear, obsolescence, or any other occurrence not directly connected with an individual household disaster.

(8) Court-ordered support and alimony payments.

(9) Shelter costs in excess of 30 percent of the household's income after the above deductions.

(a) "Shelter costs" mean rent or mortgage payment plus taxes, insurance and assessments, and utility costs such as heat, cooking fuel, electricity, water, garbage, sewage disposal and basic service fee for one telephone.

(b) The actual rent or purchase payment plus taxes, insurance and assessments (if not included in the payment) shall be used to compute shelter costs.

(c) Standardized amounts shall be used to compute the shelter costs for utilities such as heat, cooking fuel, electricity, water, garbage, sewage disposal and telephone and shall be, effective July 1, 1977:

Persons in Household	Standard
1	\$ 66.25
2	70.70
3	76.10
4	82.05
5	86.65
6	90.85
7	95.15
8	97.60
9	100.90
10 or more	105.40

(d) If a household requests and can verify that its utility bills are higher than the standards and can reasonably be predicted to continue at a higher rate for the certification period, the actual utility costs must be used. The allowance for telephone service is limited to the basic service fee for one telephone plus the tax on the basic fee. This request may be made at the initial certification or at any subsequent certification. A household may not change the method of computing utilities during a certification period. [Order 1245, § 388-54-485, filed 10/10/77; Order 1092, § 388-54-485, filed 1/28/76; Order 1063, § 388-54-485, filed 10/23/75; Order 1021, § 388-54-485, filed 4/29/75; Order 992, § 388-54-485, filed 12/31/74; Order 771, § 388-54-485, filed 1/26/73; Order 660, § 388-54-485, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-490 Income computation.** (1) The amount of income to be counted in determining household eligibility and basis of coupon issuance shall be that income which is expected to be received during the certification period. Income received on less than a monthly basis is converted into a monthly amount by multiplying the weekly amount by 4.3 and income received every two weeks is multiplied by 2.15 to determine monthly income.

(2) For households which contain both assistance recipients and nonassistance persons, the total income of

all members shall be considered in determining eligibility and basis of issuance. [Order 660, § 388-54-490, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-495 Self-employment income.** (1) A household whose primary source of income is from self-employment, including self-employed farmers, shall be certified according to this section. The amount of income from self-employment to be counted in determining household eligibility and basis of coupon issuance shall be that which is expected to be received during the yearly certification period, if income is received on other than a monthly basis. However, if self-employment income is received on a monthly basis, it is not necessary to annualize the income. These households may have their monthly income determined as any other employed household, but shall be allowed the deductions for the costs of doing business related to the self-employment enterprise.

(2) Income and costs of producing that income are to be computed on a yearly basis and averaged evenly over twelve months to determine eligibility. Proceeds of sales of capital goods or equipment are to be counted as income, and are not to be treated as capital gains according to internal revenue service rules.

(3) Yearly net income shall be determined by deduction from gross annual income any identifiable costs of doing business, such as cost of labor, stock, raw material, seed and fertilizer, taxes on income-producing property, interest on an installment contract for purchase of income-producing property. The following may not be deducted:

(a) Payments on the principal of real estate mortgages on income-producing property,

(b) Monies paid to purchase capital assets, equipment, machinery, and other goods,

(c) Any amount claimed as depreciation for federal income tax or other purposes,

(d) Any amount claimed as a net loss sustained in any prior period.

(4) The yearly net income arrived at according to subsections (1), (2) and (3) shall be divided by twelve to determine the average monthly net income from self-employment.

(5) The average monthly net income is added to all other household average monthly net income and the appropriate income deductions are made to compute the household's final average monthly net income which shall be used to determine eligibility of nonassistance households.

(6) The basis of coupon issuance of all households shall be determined by using either the same average net income as used to determine eligibility or the total annual income prorated unevenly over the yearly certification period to match the times when income is actually received. Income received as an advance shall be prorated unevenly to reflect a higher purchase requirement in the month the advance is received. [Order 992, § 388-54-495, filed 12/31/74; Order 660, § 388-54-495, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-500 Farm employment income.** (1) A farm worker shall be classified in one of three broad categories as follows:

(a) Regularly employed farm workers receiving a regular monthly salary, and those households which receive income during the work season and deferred or advance payments against future earning during the nonwork season.

(i) Such household may be certified for a period not to exceed 12 months.

(ii) The determination of eligibility shall be based on the total annual income averaged over the twelve-month period and the basis of coupon issuance should be determined in accordance with the way income is received.

(b) Households whose income during the farm season is derived from farm employment, but who are not regularly employed at such work or who do not receive deferred or advance payments during the nonwork season.

(i) If the income for the household during the farm season can be reasonably predicted, the certification period can be established so as not to exceed six months. However, based on the predictability of income during the nonwork period, the certification period should be adjusted to reflect the income status.

(c) Households who engage in farm employment on an as-needed or itinerant basis.

(i) Eligibility and basis of coupon issuance shall be based on anticipated income.

(ii) Period of certification shall be based on the predictability of income. [Order 660, § 388-54-500, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-505 Nonassistance household—Verification of eligibility.** (1) On an initial certification, gross income from all sources and mandatory deductions from income shall be verified by third person or documentary confirmation of the facts stated by the applicant. Income excluded per WAC 388-54-480 shall be verified only when there is reason to question the information given.

(2) If the application for recertification of continuing eligibility is consistent with eligibility and consistent with the previous application, verification of income is not required unless the source of income has changed or the amount of income reported has changed by more than \$25.

(3) Other eligibility factors shall be verified when the statements of the household in the application are unclear, incomplete, or inconsistent in any manner that would require an ordinarily prudent worker to question any factor affecting eligibility or basis of coupon issuance. Such questionable factors must be verified through the point where a firm determination can be made that the applicant is or is not eligible at some level of issuance.

(4) When a household reports an income so low as to put it at a zero purchase level, factors affecting eligibility and basis of issuance shall be verified through the point where a firm determination can be made that the household is or is not eligible. At least one collateral contact is mandatory.

(5) Preliminary certification for 30 days without verification of eligibility factors may be made if it appears that the household will be eligible for participation. Necessary verification and adjustment in the household's basis of issuance shall be made before the second month's issuance of coupons is given.

(6) When a household contains a student tax dependent, the food stamp eligibility of the taxpayer household must be verified. (See WAC 388-54-442.)

(a) Student tax dependency status shall be verified when questionable.

(b) If the tax dependent or the taxpayer fails to respond to a verification request, eligibility cannot be determined and he shall not be considered as a member of the household in which he resides. [Order 1030, § 388-54-505, filed 6/12/75; Order 992, § 388-54-505, filed 12/31/74; Order 660, § 388-54-505, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-510 Certification.** (1) An assistance household shall be assigned a certification period which coincides with the scheduled assistance reviews so that the review of the grant and food stamp basis of issuance can be accomplished simultaneously.

(2) A nonassistance household shall be assigned a certification period of three months, except as follows:

(a) Certification may be for less than three months when there is a possibility of frequent changes in the status of the household.

(i) A household which indicates that its income is so low that there is a likelihood that a change must occur in order for the household to continue to exist as an economic unit shall be assigned a certification period of no more than one month. A household shall not be certified for less than one semi-monthly period.

(ii) A household with one or more members on strike shall be assigned a certification period of no more than one month.

(b) In situations in which there is little likelihood of changes in financial situation and household size, the household may be recertified every six months.

(c) A household consisting solely of unemployable persons with very stable income from retirement, disability payments, or similar sources may be recertified every twelve months, provided that other household circumstances are equally expected to remain stable.

(d) A household whose primary source of income is from self-employment, farm operations, or farm employment may be recertified every twelve months, provided income can be readily predicted and household circumstances are not likely to change. A household with additional income from other sources shall be assigned a certification period in accordance with subsection (2)(a), (b) and (c).

(e) A preliminary certification pending verification shall be for no more than thirty days. [Order 992, § 388-54-510, filed 12/31/74; Order 660, § 388-54-510, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-515 Certification—Changes during certification period—Reporting.** (1) The recipient

household shall be responsible for reporting the following changes in status occurring within a certification period.

(a) Changes in gross monthly income when the total of all changes exceeds \$25.00 per month within the certification period,

(b) Changes in deductible expenses which exceed \$25.00 per month, and

(c) All other changes in household circumstances which are required to be reported on the application, such as, but not limited to, changes in household composition, a new address, new resources and changes in work registration status.

(2) All changes in status must be reported within ten calendar days of the date the change becomes known to the household. Reporting may be by telephone, mail or personal contact.

(3) When a member of an assistance household reports a change in status to the department within 10 calendar days, the household's requirements to report changes has been met. [Order 1080, § 388-54-515, filed 12/24/75; Order 992, § 388-54-515, filed 12/31/74; Order 734, § 388-54-515, filed 11/9/72; Order 660, § 388-54-515, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-520 Certification—Effecting changes during certification period.** (1) An increase in income of \$25 or less during any certification period will not affect a household's eligibility or basis of coupon issuance until the next regular recertification.

(2) When the household reports other changes during the certification period, the department shall

(a) If the change affects the source of income or the amount of income has changed more than \$25, verify the change,

(b) If the change would increase the household's purchase requirement or reduce the total coupon allotment, send the household a notice of adverse action as provided in WAC 388-54-525.

(c) Change the basis of issuance effective with the first monthly coupon allotment period after the expiration of the advance notice period; or, if advance notice is not required, change the basis of issuance no later than the first monthly coupon allotment period after the 10th day from the date the change was reported,

(d) Complete a recertification only when the certification period needs to be changed,

(e) When a food stamp recipient household reports new household circumstances before it has cashed its ATP card(s) or used any portion of the stamp allotment, it may return the original ATP card or stamps and request the ESSO to make a new issue reflecting the new household circumstances. However, issuance of an additional ATP card or stamp supplement during the month for which the ATP card(s) or stamps have already been issued and used by the recipient, on the basis of different certification information, is not authorized. [Order 1080, § 388-54-520, filed 12/24/75; Order 992, § 388-54-520, filed 12/31/74; Order 660, § 388-54-520, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-525 Certification—Notice of adverse action.** (1) Before taking any action to terminate or reduce a household's benefits within the certification period, the department shall

(a) Give the household at least ten days advance written notice of any such action,

(b) Give in detail the reasons for the proposed action,

(c) Explain the household's right to request a hearing and the circumstances under which participation is continued if a hearing is requested, and

(d) Indicate the department's willingness to schedule a conference, if the household wishes to discuss the action.

(2) A notice of adverse action shall not be required for the expiration of a certification period when no change has been reported and the household has not re-applied. Advance notice is not required when mass changes in program benefits are required because of changes in federal or state law, when the local office receives notification of the death of a one-person household; or when the household has moved from the project area. Advance notice may be waived by the household if the head of household, spouse, or authorized representative states in writing that food stamps are no longer desired or supplies information that requires reductions or termination and acknowledges in writing that he knows the required action will be taken and that he waives his right to continuation if a fair hearing is requested. [Order 992, § 388-54-525, filed 12/31/74; Order 660, § 388-54-525, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-526 Conference procedure.** (1) If the household responds to a notice of adverse action by indicating its wish for a conference, an opportunity shall be provided for the recipient or his representative to:

(a) Discuss his situation and obtain an explanation of the reasons for the proposed action,

(b) Present information which might influence the local office decision,

(c) Speak for himself or be represented by legal counsel, a friend, or other spokesman.

(2) The opportunity for a conference shall not in any way prejudice or diminish the household's right to a fair hearing. [Order 869, § 388-54-526, filed 11/1/73.]

**WAC 388-54-527 Participation during appeals.** (1) When a fair hearing is requested during the ten day advance notice period, the recipient shall continue participation on the basis effective immediately prior to the action being appealed until the hearing decision is rendered.

(a) Unless a determination is made at the hearing that the sole issue is one of federal law, regulation or policy and not a matter of fact or judgment relating to an individual case; or

(b) A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the new notice of adverse action.

(2) When a fair hearing is requested after the expiration of the 10 day advance notice, benefits will be reduced or terminated as proposed; except that, if the household establishes that its failure to make the request

within the 10 day period is for good cause, benefits may be reinstated on the prior basis. When benefits are reduced or terminated without advance notice because of a mass change due to changes in federal or state law or regulations, participation on the prior basis shall be reinstated if the issue being appealed is that food stamp eligibility or benefits were improperly computed.

(3) Deleted.

(4) When a fair hearing is requested prior to initial certification, the household will not be allowed to participate until a hearing decision is rendered.

(5) When a fair hearing is requested on an action taken as the result of a regular recertification, participation will continue on the basis of the recertification. [Order 992, § 388-54-527, filed 12/31/74; Order 869, § 388-54-527, filed 11/1/73.]

**WAC 388-54-528 Adjustments after hearing decision.** (1) Retroactive adjustments in favor of the household shall not be made except as specified in WAC 388-54-590 and 388-54-595.

(2) No claim against the household shall be required when the hearing decision determines that there was an overissuance of food stamps during the appeal period.

(3) If the hearing decision determines that food stamps were overissued as a result of misrepresentation or fraud, the household will be liable for the total amount of overissuance, including stamps issued during the appeal period. [Order 924, § 388-54-528, filed 4/15/74; Order 869, § 388-54-528, filed 11/1/73.]

**WAC 388-54-530 Recertification.** (1) If the household makes timely application, recertification shall be completed prior to the expiration of the current certification period.

(2) A household shall be notified prior to the end of the current certification period if the department intends to deny recertification for a subsequent period. [Order 660, § 388-54-530, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-535 Certification—Continuation.**

(1) The certification of a household which moves from one project area to another shall remain valid for a period of sixty days after the date of its move provided that

- (a) The household membership does not change, and
- (b) The household is certified as eligible on the anticipated date of departure except under disaster eligibility standards or a sixty day continuation, and
- (c) Cooking facilities are available in the new residence which is not a boarding house or institution. [Order 660, § 388-54-535, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-540 Basis of coupon issuance.** (1) The department shall assign each eligible household a purchase requirement and total coupon allotment according to the following table. These purchase requirements are effective July 1, 1977.

**MONTHLY COUPON ALLOTMENT BY HOUSEHOLD SIZE**

Monthly Net Income	Number of Persons							
	1	2	3	4	5	6	7	8
	\$52	\$94	\$134	\$170	\$202	\$242	\$268	\$306
	Monthly purchase requirement							
\$ 0-19.99	0	0	0	0	0	0	0	0
20-29.99	1	1	0	0	0	0	0	0
30-39.99	4	4	4	4	5	5	5	5
40-49.99	6	7	7	7	8	8	8	8
50-59.99	8	10	10	10	11	11	12	12
60-69.99	10	12	13	13	14	14	15	16
70-79.99	12	15	16	16	17	17	18	19
80-89.99	14	18	19	19	20	21	21	22
90-99.99	16	21	21	22	23	24	25	26
100-109.99	18	23	24	25	26	27	28	29
110-119.99	21	26	27	28	29	31	32	33
120-129.99	24	29	30	31	33	34	35	36
130-139.99	27	32	33	34	36	37	38	39
140-149.99	30	35	36	37	39	40	41	42
150-169.99	33	38	40	41	42	43	44	45
170-189.99	39	44	46	47	48	49	50	51
190-209.99	40	50	52	53	54	55	56	57
210-229.99	42	56	58	59	60	61	62	63
230-249.99	42	62	64	65	66	67	68	69
250-269.99		68	70	71	72	73	74	75
270-289.99		74	76	77	78	79	80	81
290-309.99		74	82	83	84	85	86	87
310-329.99		74	88	89	90	91	92	93
330-359.99			94	95	96	97	98	99
360-389.99			103	104	105	106	107	108
390-419.99			112	113	114	115	116	117
420-449.99			116	122	123	124	125	126
450-479.99				131	132	133	134	135
480-509.99				140	141	142	143	144
510-539.99				146	150	151	152	153
540-569.99				146	159	160	161	162
570-599.99					168	169	170	171
600-629.99					174	178	179	180
630-659.99					174	187	188	189
660-689.99					174	196	197	198
690-719.99						205	206	207
720-749.99						210	215	216
750-779.99						210	224	225
780-809.99						210	232	234
810-839.99							232	243
840-869.99							232	252
870-899.99							232	261
900-1049.00								266

(2) The following formula shall be used for the issuance of coupons to households of more than eight persons.

(a) For each person in excess of eight, \$38.00 shall be added to the monthly coupon allotment for an eight-person household.

(b) The purchase requirement for an eight-person household shall be used for households with incomes of \$99.99 or less per month.

(c) For households with monthly incomes of \$900 or more - for each thirty dollars of monthly income (or portion thereof) over \$899.99 nine dollars shall be added to the monthly purchase requirement for an eight-person household with income of \$899.99.

(d) The maximum monthly purchase requirement for households of more than eight persons shall be determined by adding \$34 for each person over eight to the

maximum purchase requirement for an eight-person household.

(3) The department shall offer an eligible household a monthly or semimonthly issuance, whichever is best geared to the frequency of its receipt of income. [Order 1249, § 388-54-540, filed 10/28/77; Order 1153, § 388-54-540, filed 9/22/76; Order 1091, § 388-54-540, filed 1/28/76; Order 1039, § 388-54-540, filed 8/7/75; Order 1007, § 388-54-540, filed 2/13/75; Order 966, § 388-54-540, filed 8/29/74; Order 889, § 388-54-540, filed 12/27/73; Order 803, § 388-54-540, filed 5/31/73; Order 687, § 388-54-540, filed 6/1/72; Order 660, § 388-54-540, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-545 Identification card.** (1) The department shall issue each eligible household an identification card to be signed by the head of the household or spouse and the authorized representative, if any.

(2) The identification card for a household in which one or more persons are eligible for and express an intent to use food stamps to pay for delivered meals shall be conspicuously marked with the letter "M" and have an expiration date, if eligibility for delivered meals will be temporary.

(3) Upon request, the head of the eligible household or his selected representative shall present the identification card of the head of the household to the retail food store or nonprofit meal delivery service when exchanging food coupons for eligible food. [Order 660, § 388-54-545, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-550 Authorization to purchase.** (1) The department shall issue each eligible household for each issuance period an authorization to purchase card which specifies the face value of the coupon allotment the household is entitled to receive and the amount to be paid by the household, except as provided in subsections (2) and (3).

(2) The department shall cease to issue authorization to purchase cards when a household fails to purchase for three consecutive months in a certification period.

(a) A notice of adverse action shall not be given.

(b) The household may request that authorization to purchase cards be issued any time during the rest of the certification period.

(3) A household electing to have the cost of its monthly allotment deducted from a public assistance grant shall not receive an authorization to purchase card. [Order 660, § 388-54-550, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-555 Food coupon issuance and sales—Variable purchase.** (1) Food coupons shall be sold, subject to approval by FNS, by the department's local offices, banks, county officials, municipal offices or others which have contracted with the department.

(2) A household may elect to have the cost of its full monthly coupon allotment deducted from its public assistance payment(s) and receive its full monthly coupon allotment from the department.

(3) Food coupons may be purchased by mail from the department's local offices.

(4) Local offices of the department may accept vouchers and checks from public and private agencies with whom the department has a written agreement to provide the purchase requirement of eligible food stamp households.

(5) An eligible household, except one purchasing coupons according to subsection (2), may elect at the time of issuance to receive a coupon allotment having a face value of all, three-quarters, one-half, or one-quarter of the monthly coupon allotment authorized in accordance with WAC 388-54-540, and pay an amount in the same ratio to the total purchase requirement as the elected coupon allotment is to the total monthly allotment.

(a) When the monthly coupon allotment is not divisible by four and results in an uneven dollar amount, the face value of the variable purchase shall be rounded up to the next higher whole dollar amount. The purchase requirements for such allotments shall not be changed. [Order 803, § 388-54-555, filed 5/31/73; Order 702, § 388-54-555, filed 7/27/72; Order 660, § 388-54-555, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-560 Food coupon use or redemption.**

(1) The head of the eligible household or his authorized representative shall sign each book of coupons upon receipt.

(2) Coupons may be used only by the head of the household or other persons selected by him to purchase eligible food for the household.

(3) Persons eligible to purchase delivered meals with food stamps may use the stamps issued to them to purchase meals delivered by an authorized meal delivery service or to purchase food for home consumption in an authorized retail store.

(4) Except for those uncanceled and unendorsed coupons of fifty cent denomination returned as change by authorized retail food stores or nonprofit meal delivery services, coupons shall be detached from the book only at the time such coupons are used for payment of eligible food purchased in or delivered by authorized retail food stores or nonprofit meal delivery services or communal dining facilities. The head of the household or his selected representative has the right to detach the coupons from the book at the time of purchase or delivery.

(5) Coupons shall not be used to pay for any eligible food purchased prior to the time at which the coupons are presented to authorized retail food stores or nonprofit meal delivery services.

(6) In the event of voluntary termination of participation in the program by a household or death of the head of the household, properly issued coupons may be returned to the department or to FNS for a refund on the same ratio of cash to coupons as was applied by the department in the issuance of the coupons. Such refund may be requested and paid in the following order of precedence and under the following conditions:

(a) To the household member who applied for participation in the program, or his or her spouse;

(b) When the head of the eligible household is incompetent, to a guardian, close relative, or other individual or organization which has assumed partial or complete

financial responsibility for his care and custody, provided a statement is furnished describing the relationship between the claimant and the incompetent and the claimant certifies that the appointment of a legal representative is not contemplated and that the refund will be used for the benefit of the incompetent;

(c) When the head of the eligible household is deceased, the administrator, executor, or other legally authorized representative of the estate, when supported by a copy of the court order or other document legally establishing his authority to act;

(d) In the absence of such administrator, executor, or other legally authorized representative, to the sole heir or any one of a number of heirs to the estate of the deceased, provided in the latter case he affirms that the refund will be applied toward the payment of outstanding obligations of the deceased or shared with other heirs in accordance with the law of the state in which the deceased resided;

(e) To the department when the department paid the purchase price directly. [Order 992, § 388-54-560, filed 12/31/74; Order 660, § 388-54-560, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-565 Ineligible receipt of food coupons.** (1) When a household receives free food coupons in excess of the amount for which eligible, the facts must be determined, a determination made of the basis, amount and liability for the dollar value of the incorrect issue, and repayment secured or reasonable collection effort pursued.

(2) RCW 74.08.331 makes it a crime of grand larceny for a person to receive food coupons fraudulently. Cases of suspected fraud shall be investigated and may be referred to the county prosecutor for possible prosecution. See WAC 388-46-100. [Order 925, § 388-54-565, filed 4/15/74; Order 660, § 388-54-565, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-570 Ineligible receipt of food coupons—Liability for repayment.** (1) A participating household is liable for repayment of free coupons which the household obtained through fraud and/or misrepresentation.

(a) A demand for repayment does not relieve the household of any other civil or criminal liability.

(b) A participating household shall be held liable for any overissuances of bonus coupons because of administrative or procedural error(s) of which the recipient was aware and continued to benefit from the error(s).

(2) A participating household is liable for repayment of excess free coupons received through misunderstanding or through departmental error except when

(a) The overissue occurs as a result of error by a cashier in collecting, depositing or issuing coupons contrary to authorizing documents.

(b) The overissue is less than \$400 and the department declines collection on determination of the local office administrator or his designee that

(i) The department cannot collect or enforce collection of any significant sum from the household, or

(ii) The cost of collection action will likely exceed the amount recoverable, or

(iii) Evidence necessary to prove the claim cannot be produced.

(c) The overissue is \$400 or more and the food and nutrition service concurs with a local office and state office recommendation that repayment be declined for a reason specified in subsection (b)(i) through (iii). [Order 1021, § 388-54-570, filed 4/29/75; Order 660, § 388-54-570, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-575 Ineligible receipt of food coupons—Collection of claim.** (1) A claim against a participating household should usually be collected in one lump sum. However, when a household is financially unable to make such payment, regular installments may be accepted except when the household has liquid resources and could repay in full without undue hardship.

(a) Installments should usually be sufficient in size and frequency to liquidate the claim in not more than three years.

(b) Payments of less than \$5 per month are acceptable only in the most unusual circumstances.

(c) If a claim cannot be liquidated in three years without undue hardship on the household, the department must have FNS concurrence before approving a payment schedule.

(2) Collection efforts may be terminated and a claim considered uncollectable when the FNS concurs with the department's determination that

(a) It cannot collect or enforce collection of any significant sum from the household, or

(b) The household cannot be located or has moved to another state where its whereabouts are unknown, or

(c) The cost of further collection action will exceed the amount recoverable thereby, or

(d) The claim is legally without merit, or

(e) The evidence necessary to prove the claim cannot be produced or the necessary witnesses are unavailable and efforts to induce voluntary payment are unavailing.

(3) Any money collected on claims is payable by the department to FNS.

(4) Coupons can be accepted as repayment only when the overissuance is immediately detected and the coupons recovered are a part of the erroneous issuance. [Order 869, § 388-54-575, filed 11/1/73; Order 660, § 388-54-575, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-580 Ineligible receipt of food coupons—Claim unpaid—Eligibility for food coupons.**

(1) A household owing an unpaid balance on a claim resulting from the household's fraud or misrepresentation may participate in the program only if all reasonable efforts to repay are being made, scheduled payments continue to be made and it is in the best interest of the program for the household to participate. [Order 660, § 388-54-580, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-585 Replacement purchase.** (1) A household may make a replacement purchase of coupons when it has suffered the loss of a substantial portion of

its coupons or of food purchased with such coupons. Fire, theft or other unforeseen events are examples which cause such a loss.

(2) In such instances the household may be recertified on the basis of current needs and permitted to purchase additional coupons during the same month under the following conditions:

(a) The participant's statements regarding the circumstances which caused the loss are verified and documented in the case record. Form 12PA08, food stamp program affidavit, should be part of this documentation.

(b) The timing of the destruction, based upon the time of original purchase, leads to the conclusion that a significant portion of coupons were unspent or a substantial inventory of food was destroyed.

(c) The household would be expected to have a current need of the replacement coupons before the next purchase period.

(d) Depending on the time remaining until the next purchase period, the coupon allotment and the purchase requirement shall be for a month if twenty-four or more days remain, for three quarters of a month of sixteen through twenty-three days remain, for one-half month if eight through fifteen days remain, and one quarter of a month if seven or fewer days remain. For replacement periods of less than a month, three-fourths, one-half or one-fourth of the monthly amounts in WAC 388-54-540 are used depending on the period remaining.

(3) The net income of the household used to compute the original basis of issuance may be adjusted downward by the amount of the purchase requirement expended by the household in making that purchase. [Order 660, § 388-54-585, filed 2/23/72, effective 4/1/72.]

**WAC 388-54-590 Cash refunds.** (1) A household shall be entitled to a cash refund for any amount that it has been overcharged for its coupon allotment as a result of department error.

(a) A cash refund shall be made only when a household receives fewer bonus coupons than it is entitled to receive.

(2) If a household which is entitled to a refund owes an unpaid balance on a claim see WAC 388-54-598. [Order 1136, § 388-54-590, filed 7/29/76; Order 869, § 388-54-590, filed 11/1/73.]

**WAC 388-54-595 Retroactive benefits.** (1) Households certified to participate in the food stamp program shall be reimbursed when their food stamp benefits have been delayed, denied or terminated as a result of ESSO delay in processing an application (see WAC 388-54-405(4)) or as a result of any other administrative error.

(a) Reimbursement shall be provided through automatic forward adjustments to the purchase requirement of the household. No action will be required by either the household or a fair hearing authority.

(b) When the ESSO determines that a household is entitled to lost benefits as outlined under subsection (1), the household shall be notified in writing that a credit account has been established, the amount of the benefits to be restored, and the right to appeal to the fair hearing

process if the household disagrees with the computation of the forward adjustment.

(c) If a fair hearing is requested, lost benefits will be restored as originally computed pending the fair hearing decision.

(2) Deleted

(3) If, as a result of a fair hearing decision, pursuant to WAC 388-54-527, a household is determined to be eligible for retroactive benefits, the benefits shall be made available by reducing its purchase requirement so that the reduction will, in the shortest time possible, equal the amount of the benefits lost. When an authority to purchase card is issued to such a household, the reduction in the purchase requirement reflected on the card shall be considered retroactive benefits made available to the household whether or not the household negotiates the card.

(4) If a household which is entitled to retroactive benefits owes an unpaid balance on a claim see WAC 388-54-598. [Order 1136, § 388-54-595, filed 7/29/76; Order 1063, § 388-54-595, filed 10/23/75; Order 924, § 388-54-595, filed 4/15/74.]

**WAC 388-54-598 Offsetting unpaid claims.** (1) Any unpaid balance on a fraud or nonfraud claim shall be applied against retroactive benefits or cash refunds due before reimbursement is made to a household.

(2) If a household is due both retroactive benefits and a cash refund the amount of the claim shall be applied

(a) Against the amount of the retroactive benefits, and

(b) Any remaining amount shall be applied against the refund. [Order 1136, § 388-54-598, filed 7/29/76.]

**WAC 388-54-700 Food distribution program—General provisions and coverage.** (1) United States department of agriculture donated commodities shall be distributed to eligible persons in King, Snohomish and Pierce counties in accordance with department and FNS regulations and instructions.

(2) WAC 388-54-405, the general provisions of the food stamp program, and the specific rules in chapter 388-54 WAC which are pertinent to the distribution and receipt of commodities shall apply in the administration of the food distribution program.

(3) The rules in chapter 388-54 WAC shall apply to application, eligibility, and certification for food commodities. [Order 665, § 388-54-700, filed 3/23/72.]

**WAC 388-54-705 Food distribution program—Participation.** (1) Upon issuance of an authorization card an eligible household shall have the option to purchase food stamps or to receive food commodities and shall be informed of that option.

(2) A household shall not participate in the food stamp program and in the food distribution program during the same month.

(3) A household certified on a semimonthly basis shall relinquish both authorization to purchase cards when it elects to participate in the food distribution program. [Order 665, § 388-54-705, filed 3/23/72.]



**WAC 388-54-710 Food distribution program—**  
**Issuance of commodities.** (1) Food commodities shall be issued on a full month's basis only.

(2) The kinds and amounts of commodities issued shall be those as specified by the United States department of agriculture. [Order 665, § 388-54-710, filed 3/23/72.]

### Chapter 388-55 WAC ASIAN REFUGEE ASSISTANCE

**WAC**  
 388-55-010 Vietnamese and Cambodian refugee assistance.

**WAC 388-55-010 Vietnamese and Cambodian refugee assistance.** (1) Assistance shall be granted to Vietnamese, Cambodian and Laotian refugees within the provisions of Public Law 94-313, the Indochina Migration and Refugee Assistance Act, and Public Law 94-330, Special Appropriations for Assistance to Refugees from Cambodia, Vietnam and Laos.

(2) For the purpose of the refugee assistance program a refugee is defined as a Cambodian, Vietnamese or Laotian national who has been paroled into the United States as a refugee, or has been granted voluntary departure as a refugee by the Immigration and Naturalization Service (INS).

(a) Parole is granted only prior to or at entry into the United States.

(b) Voluntary departure is granted when a refugee had entered the country as a nonimmigrant prior to the refugee evacuation.

(c) Possession of INS form I-94 indicating that the person has been paroled into the U. S. or has been granted "voluntary departure" status shall constitute evidence of refugee status.

(3) Requirements of categorical relatedness of federal assistance programs are waived.

(4) Assistance to all types of refugee cases, regardless of family composition, shall be provided at the AFDC monthly payment standards; income and resources will be treated according to AFDC standards. WAC 388-28-005 through 388-28-133 and 388-28-600 are applicable. No resources which are not available, including property remaining in Vietnam, Laos or Cambodia, shall be considered in determining eligibility for financial assistance.

(5) The refugee family unit which includes United States citizen children, by virtue of their being born in this country, shall be treated as a single assistance unit under the refugee assistance program.

(6)(a) All applicants for and recipients of a financial grant under the refugee assistance program and each member of the family group of which they are a part are required to register for employment with the state employment service unless the individual is

(i) an individual who is under 16, or who is under age 21 and is attending school or training full time, or who is age 21 or over and is attending school or training as approved by the department;

(ii) a person who is ill, incapacitated, or over 65;

(iii) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(iv) a mother or other caretaker of a child under the age of six who is caring for the child;

(v) a mother or other caretaker of a child, when the nonexempt father or other nonexempt adult relative in the home is registered and has not refused to accept employment without good cause.

(b) The nonexempt refugee applicant or recipient must accept employment when available as specified in WAC 388-57-025(4) through (7).

(c) Inability to communicate in English does not justify exemption from registration or acceptance of employment.

(7)(a) In the instance of a refugee who is employed and receiving supplementary assistance, the department shall require part-time training such as English language or skill training, if available and determined appropriate, if the refugee is employed part-time (less than 100 hours per month), as a condition for continued receipt of assistance.

(b) English as a second language is defined as a training program for the purposes of this section.

(8) Refusal of an employable adult recipient to register with the Employment Service or to accept or continue employment or training opportunity without good cause, as determined by the ESSO, will result in the following actions:

(a) The ESSO will provide counseling within 7 days of recipients refusal to participate. This counseling is intended to provide the refugee with an understanding of the implications of his refusal to accept employment or training, and to encourage the refugee's acceptance of such opportunity. Only one such counseling session is required but additional counseling may be provided at the discretion of the ESSO.

(b) If the employable refugee recipient continues to refuse an offer of employment or training, assistance will be terminated 30 days after the date of his original refusal. The refugee shall be given at least 10 days written notice of the termination of assistance and the reason therefore. This sanction shall be applied in the following manner:

(i) If the assistance unit includes other individuals, then the grant shall be reduced by the amount included on behalf of that refugee. If the employable refugee is a caretaker relative, assistance in the form of protective or vendor payments will be provided to the remaining members of the assistance unit.

(ii) If such individual is the only individual in the assistance unit, the grant shall be terminated.

(iii) The recipient's voluntary agency (VOLAG) shall be notified if either action (i) or (ii) takes place.

(iv) A decision by the refugee to accept employment or training, made at any time within the 30-day period after the date of the original refusal, shall result in the continuation of assistance without interruption if the refugee continues to meet the eligibility requirements for continued assistance.

(v) An employable refugee shall be ineligible for a period of 30 days after the termination of assistance because of refusal to accept or continue employment or training.

(9) Recipients of assistance currently attending school at the time of the effective date of this revision will be allowed to finish the current semester or quarter.

(10) Full-time attendance in a college program is not considered appropriate training unless:

(a) The individual will finish his/her degree within one year from the effective date of this revision.

(b) The program has a definite short-term employment objective (less than one year) and is approved by the ESSO as part of an employability plan for the refugee; or

(c) The individual is an Indochinese professional who is attending college to become relicensed in his/her profession, in which case continued attendance shall be approved up to September 30, 1977, if such course of study is not completed earlier.

(11) A refugee of any age who is otherwise eligible shall not be denied cash assistance while enrolled and participating in a training program which is part of an employability plan approved by the ESSO, that is, training intended to have a definite short-term (less than one year) employment objective.

(12)(a) Adult refugee recipients shall be eligible for earned income exemptions as specified in WAC 388-28-570, regardless of assistance unit composition.

(b) The income of a refugee dependent child shall be treated as specified in WAC 388-28-535.

(13) All refugee recipients who are 65 years of age or older, or who are blind or disabled will be referred immediately to the social security administration for SSI benefits. The SSI applicant will be included in the assistance grant at the AFDC standard until payments are received.

(14)(a) The refugee recipient receiving a continuing assistance grant is eligible for medical assistance as specified in WAC 388-82-010(1).

(b) Eligibility for medical care for the nonrecipient refugee shall be determined as specified in chapter 388-83 WAC. Eligibility is based on medical and financial need only; requirements of categorical relatedness are waived. Subdivision (12)(a) is applicable in determining the amount of participation in medical costs for refugee recipients.

(c) The refugee recipient who becomes ineligible because of increased income from employment shall remain eligible for medical assistance for four calendar months beginning with the month of ineligibility provided that

(i) In the case of a single individual assistance unit:

(A) The individual received assistance in at least three (3) of the six (6) months immediately preceding the month of ineligibility; and

(B) He/she continues to be employed

(ii) In the case of a multiple individual assistance unit

(A) The family received assistance in at least three (3) of the six (6) months immediately preceding the month of ineligibility; and

(B) A member of the family continues to be employed.

(d) Medical need shall not be an eligibility factor.

(15) Refugee recipients shall have their continuing eligibility for financial and medical assistance redetermined at least once in every three months of continuous receipt of assistance. [Order 1188, § 388-55-010, filed 2/18/77; Order 1173, § 388-55-010, filed 11/24/76; Order 1160, § 388-55-010, filed 10/6/76; Order 1079, § 388-55-010, filed 12/24/75; Order 1041, § 388-55-010, filed 8/7/75.]

Chapter 388-57 WAC

EMPLOYMENT AND TRAINING—WORK INCENTIVE

WAC

- 388-57-010 Utilization of employment security department.
- 388-57-015 Utilization of employment security department—Registration.
- 388-57-020 Unemployment compensation status—Verification.
- 388-57-025 Acceptance of full or part-time employment—Effect of refusal on eligibility.
- 388-57-028 Vocational training.
- 388-57-030 Acceptance of training for employment—Effect of refusal on eligibility.
- 388-57-040 Work incentive program—Statutory basis.
- 388-57-045 Work incentive program—Definitions.
- 388-57-056 Refusal to cooperate in appraisal prior to certification.
- 388-57-057 Work incentive program—Certification of AFDC recipient to state employment service.
- 388-57-061 Refusal of training or employment under WIN without good cause.
- 388-57-062 Refusal of training or employment under WIN without good cause—Counseling period.
- 388-57-064 Refusal of training or employment under WIN without good cause—Reregistration and reacceptance to WIN.
- 388-57-070 Economic social service office—State employment service joint case responsibility.
- 388-57-090 Refusal of training or employment under WIN without good cause—Fair hearings.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-57-029 Person attending post-high school education or training. [Order 750, § 388-57-029, filed 12/7/72; Order 610, § 388-57-029, filed 9/22/71; Order 544, § 388-57-029, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-029, filed 5/14/70, effective 6/15/70.] Repealed by Order 858, filed 9/27/73.
- 388-57-035 Referral of employable applicant or recipient to division of vocational rehabilitation. [Order 544, § 388-57-035, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-035, filed 2/14/69.] Repealed by Order 610, filed 9/22/71.
- 388-57-050 Work incentive program—Objective. [Order 340, § 388-57-050, filed 2/14/69.] Repealed by Order 544, filed 3/31/71, effective 5/1/71.
- 388-57-055 Work incentive program—Referral of AFDC recipient to state employment service. [Order 544, § 388-57-055, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-055, filed 5/14/70, effective 6/15/70; Order 414, § 388-57-055, filed 12/23/69; Order 340, § 388-57-055, filed 2/14/69.] Repealed by Order 750, filed 12/7/72.
- 388-57-060 Work incentive program—Mandatory participation by certified AFDC recipient. [Order 750, § 388-57-060, filed 12/7/72; Order 544, § 388-57-060, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-060,

- filed 5/14/70, effective 6/15/70; Order 340, § 388-57-060, filed 2/14/69.] Repealed by Order 832, filed 7/26/73.
- 388-57-065 County office screening unit—Composition—Duties. [Order 414, § 388-57-065, filed 12/23/69; Order 340, § 388-57-065, filed 2/14/69.] Repealed by Order 452, filed 5/14/70, effective 6/15/70.
- 388-57-075 Work incentive program—Child care plan—Standards—Payment. [Order 544, § 388-57-075, filed 3/31/71, effective 5/1/71; Order 414, § 388-57-075, filed 12/23/69; Order 340, § 388-57-075, filed 2/14/69.] Repealed by Order 750, filed 12/7/72.
- 388-57-079 Work incentive program—Supplemental payments for trainees—Special authorization for clothing. [Order 544, § 388-57-079, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-079, filed 5/14/70, effective 6/15/70.] Repealed by Order 750, filed 12/7/72.
- 388-57-080 Work incentive program—Special authorization for transportation. [Order 544, § 388-57-080, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-080, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-080, filed 2/14/69.] Repealed by Order 750, filed 12/7/72.
- 388-57-083 Work incentive program—Special authorization for supplementary medical care. [Order 544, § 388-57-083, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-083, filed 5/14/70, effective 6/15/70.] Repealed by Order 750, filed 12/7/72.
- 388-57-084 Work incentive program—Pre-referral physical examination. [Order 544, § 388-57-084, filed 3/31/71, effective 5/1/71; Order 476, § 388-57-084, filed 9/8/70.] Repealed by Order 750, filed 12/7/72.
- 388-57-110 Work incentive program—Special work projects. [Order 544, § 388-57-110, filed 3/31/71, effective 5/1/71; Order 397, § 388-57-110, filed 10/15/69.] Repealed by Order 750, filed 12/7/72.

**WAC 388-57-010 Utilization of employment security department.** The department of employment security shall be utilized to provide recipients of public assistance the opportunity to find and prepare for employment. [Order 832, § 388-57-010, filed 7/26/73; Order 544, § 388-57-010, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-010, filed 2/14/69.]

**WAC 388-57-015 Utilization of employment security department—Registration.** (1) An employable applicant for or recipient of general assistance shall be currently registered for employment with employment security prior to granting of assistance.

(2) An AFDC-E father or stepfather shall be registered for employment as specified in WAC 388-24-135(6). [Order 1101, § 388-57-015, filed 2/25/76; Order 832, § 388-57-015, filed 7/26/73; Order 610, § 388-57-015, filed 9/22/71; Order 544, § 388-57-015, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-015, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-015, filed 2/14/69.]

**WAC 388-57-020 Unemployment compensation status—Verification.** (1) An applicant for or recipient of AFDC-R, AFDC-E or general assistance who is potentially eligible for unemployment compensation shall apply for unemployment compensation unless he furnishes written verification that he is receiving or not eligible to receive unemployment compensation.

(2) A recipient of AFDC-R, AFDC-E or general assistance who becomes potentially eligible for unemployment compensation is required to comply with the provisions of subsection (1) within 30 days.

(3) Deleted.

(4) The wife of the AFDC-E applicant or recipient who is potentially eligible for unemployment compensation is required to comply with the provisions of subsections (1) and (2). [Order 1189, § 388-57-020, filed 2/18/77; Order 1051, § 388-57-020, filed 9/10/75; Order 832, § 388-57-020, filed 7/26/73; Order 610, § 88-57-020, filed 9/22/71; Order 544, § 388-57-020, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-020, filed 2/14/69.]

**WAC 388-57-025 Acceptance of full or part-time employment—Effect of refusal on eligibility.** (1) This section does not apply to an AFDC-R applicant or recipient or to an AFDC-E recipient who is certified to the WIN program. This section does apply to an AFDC-E applicant father or stepfather and to an AFDC-E father or stepfather who has not been elected for WIN participation after appraisal.

(2) "Employment" as used in this section shall mean part-time or full-time employment for wages, in cash or in kind, equal in value to the community rate for the type of work to be performed.

(3) Refusal without good cause to accept a bona fide offer of part-time or full-time employment or to continue working when employed, by an employable applicant or recipient shall make him and other members of his assistance unit ineligible for public assistance for at least 30 days, or until he accepts available employment, whichever is the lesser period. If at the end of the 30 days the employment is still available or other reasonable employment is available, another thirty days' penalty will become effective. Such employment shall be reasonably available and within the individual's competence to perform.

(a) For an applicant, the period of ineligibility shall begin with the date of refusal,

(b) For a recipient, the period of ineligibility shall be the calendar month following expiration of the advance notice period.

(4) Full-time employment when available must be accepted. The acceptance of part-time employment when full-time work is available does not satisfy this requirement. An offer of employment shall be verified as specified in subsections (5) and (6). Subsection (4) does not apply when a person with limited skills and abilities is working to the best of his ability.

(5) Written notification by the SES that it placed an individual in employment shall constitute verification of a job offer. The SES refers a person to a job only when the wage paid is not less than the prevailing community rate.

(6) If the SES did not refer the individual to the job, the written or verbal statement from an employer that clearly indicates that he did, in fact, offer the individual specific employment on a specific date for a specified wage shall constitute verification of a bona fide job offer. However, in agricultural or similar labor situations,

a bona fide offer of employment is considered verified when there is a statement, substantiated by pertinent details in the case record, that a specific employment opportunity existed for the recipient and the recipient had knowledge of the opportunity.

(7) The following conditions when verified shall constitute good cause for refusal of an offer of employment or refusal to continue employment.

(a) Physical, mental or emotional inability of the individual to satisfactorily perform the work required,

(b) Inability of the individual to get to and from the job without undue cost or hardship to him,

(c) The nature of the work would be hazardous to the individual,

(d) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community,

(e) The job is available because of labor dispute. [Order 1101, § 388-57-025, filed 2/25/76; Order 906, § 388-57-025, filed 2/14/74; Order 750, § 388-57-025, filed 12/7/72; Order 610, § 388-57-025, filed 9/22/71; Order 544, § 388-57-025, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-025, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-025, filed 2/14/69.]

**WAC 388-57-028 Vocational training.** (1) It is the objective of the department to assist some unemployed persons to obtain employment which is within their capacity to perform as soon as possible. When training is the most appropriate method of fulfilling this objective, the department may support up to 24 continuous months of vocational training as defined in WAC 388-22-030(73). The 24 months shall not include the time necessary to acquire a general educational development certificate or high school diploma prior to enrollment in a vocational program.

(2) With the exception of work incentive program and vocational rehabilitation services training plans, the ESSO must make a decision approving or disapproving a vocational training plan when an applicant or recipient requests child care or other supplemental payments.

(a) ESSO approval is required for any vocational training plan which makes it necessary for the responsible relative to reside apart from his family if the responsible relative requests assistance to meet his needs while in training.

(3) Deleted.

(4) The ESSO shall not approve a training plan when

(a) The plan requires more than 24 continuous calendar months to meet the objective stated in subsection (1), or

(b) The plan does not meet the definition of vocational training as stated in WAC 388-22-030(73).

(5) In exceptional situations or when an individual is sufficiently handicapped to require more time than the average student to complete a two-year course, or if a short additional period is required to complete a previously developed plan, an exception may be requested under the rules in chapter 388-20 WAC.

(6) The ESSO shall not authorize child care or other supplemental payments for an applicant or recipient

when a training plan has been disapproved. [Order 1199, § 388-57-028, filed 3/18/77; Order 1101, § 388-57-028, filed 2/25/76; Order 976, § 388-57-028, filed 10/28/74; Order 832, § 388-57-028, filed 7/26/73; Order 610, § 388-57-028, filed 9/22/71; Order 544, § 388-57-028, filed 3/31/71, effective 5/1/71; Order 355, § 388-57-028, filed 5/29/60.]

**WAC 388-57-030 Acceptance of training for employment—Effect of refusal on eligibility.** (1)(a) This section is applicable to an AFDC-E applicant or recipient father or stepfather who is exempt from WIN registration.

(b) This section does not apply to

(i) An AFDC-R applicant or recipient

(ii) An AFDC-E recipient certified to the WIN program.

(2) When employment is not available, refusal without good cause to accept a bona fide offer of training for employment which is reasonably available to an employable applicant or recipient and is within his competence to perform shall make him and other members of his assistance unit ineligible for public assistance for at least thirty days or until he accepts employment or training for employment whichever is the lesser period. If at the end of the thirty days' employment or training for employment is still available, another thirty days' penalty will become effective.

(a) For an applicant, the period of ineligibility shall begin with the date of refusal,

(b) For a recipient, the period of ineligibility shall be the calendar month following expiration of the advance notice period. [Order 1165, § 388-57-030, filed 10/27/76; Order 906, § 388-57-030, filed 2/14/74; Order 750, § 388-57-030, filed 12/7/72; Order 610, § 388-57-030, filed 9/22/71; Order 544, § 388-57-030, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-030, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-030, filed 2/14/69.]

**WAC 388-57-040 Work incentive program—Statutory basis.** The work incentive (WIN) program is authorized by Part C of Title IV of the Social Security Act which directs the secretary of labor to establish work incentive programs in each state. The Washington state employment security department, by agreement with the secretary of the U.S. department of labor, provides AFDC recipients with the following service categories for placement:

(1) Placement in employment, on-the-job training, or

(2) Institutional and work experience training likely to lead to regular employment, or

(3) Public service employment. [Order 750, § 388-57-040, filed 12/7/72; Order 544, § 388-57-040, filed 3/31/71, effective 5/1/71; Order 397, § 388-57-040, filed 10/15/69; Order 340, § 388-57-040, filed 2/14/69.]

**WAC 388-57-045 Work incentive program—Definitions.** As used in the WIN program and in other rules of Title 388 WAC relating to WIN

(1) "Certification" means a written statement by the department to the state employment service that requested self-support services are provided or arranged for a specific participant and that the individual is ready for employment or training, or that no self-support services are needed and that the individual is at that time ready for employment or training.

(2) Deregistration means the removal of an individual from the WIN program. Such removal is required when the individual has

- (a) Refused to participate without good cause
- (b) Been required to register in error
- (c) Become exempt

(d) Become ineligible for AFDC except in the case where he is participating in subsidized employment, for example, public service employment (PSE) or on the job training (OJT), or is working in unsubsidized employment and receiving WIN funded services from the department.

(e) Become employed as a voluntary WIN participant even though the individual continues to be eligible for assistance.

(f) Been required to register and has failed to appear for a second appraisal interview without good cause.

(3) "Exempt" means an AFDC recipient who is not legally required to register for employment or training under the WIN program.

(4) "Incentive payments" means cash payment up to \$30 per month, paid semi-monthly to a WIN participant who is participating in an activity for which such payments are authorized.

(5) "Institutional training" means skill training for a specific occupational area conducted by an instructor in a nonwork site setting.

(6) "On the job training (OJT)" means structured training for specific occupational skills provided by an employer in a work site setting. The AFDC-E recipient who is employed more than one hundred hours a month in OJT is considered to be fully employed and ineligible for assistance.

(7) "Public service employment" means a WIN component which provides subsidized, transitional employment for WIN participants with public or private nonprofit agencies.

(8) "Registrant" means an AFDC recipient who has registered for manpower services, training, and employment as provided by Part C of Title IV of the Social Security Act.

(9) "Registration" means the process whereby an AFDC applicant or recipient signs a completed registration card.

(10) "Self-support services" means those services necessary to enable the participant to enter employment or training which has been requested by the state employment service and provided or arranged by the department.

(11) "Training-related expenses" means those reimbursable expenses incurred by participants in order to participate in work experience and training.

(12) "Unassigned/recipient" means an AFDC recipient who is not working full-time and is not in a WIN component or status.

(13) "Volunteer" means any AFDC recipient who is legally exempt from registration who chooses to register for WIN.

(14) "Working registrant" means an AFDC recipient registered with WIN, who is currently working full-time in unsubsidized employment. Full-time is defined as 40 hours a week except where fewer hours are normal to the occupation but on no account less than 30 hours per week. [Order 1165, § 388-57-045, filed 10/27/76; Order 1101, § 388-57-045, filed 2/25/76; Order 872, § 388-57-045, filed 11/16/73; Order 750, § 388-57-045, filed 12/7/72.]

**WAC 388-57-056 Refusal to cooperate in appraisal prior to certification.** A WIN registrant, unless he is a volunteer, who is determined to have failed or refused without good cause to appear for appraisal or otherwise cooperate during the appraisal process will be de-registered from WIN by WSES and shall be removed from the AFDC grant for failure to participate. Assistance for the other members of the family shall be provided in the form of protective or vendor payment. [Order 1118, § 388-57-056, filed 5/13/76.]

**WAC 388-57-057 Work incentive program—Certification of AFDC recipient to state employment service.** (1) An AFDC recipient registered with WIN shall be certified to the state employment service when requested by the state employment service.

(2) Self-support services required by the individual shall be provided and continued as needed during the individual's participation in all WIN components, and for a thirty-day period from the start of full time, continuous employment. The thirty-day limitation following employment shall include "WIN on-the-job training", "WIN public service employment", and WIN "suspense" to CETA "on-the-job training" and "public service employment".

(3) An AFDC father must be certified to WIN within thirty days of receipt of assistance whether or not requested by the state employment service.

(4) A certified mandatory registrant may not refuse supportive services if such refusal prevents the individual from accepting an appropriate work or training assignment. Such refusal shall be treated as a refusal to participate without good cause. [Order 1165, § 388-57-057, filed 10/27/76; Order 1118, § 388-57-057, filed 5/13/76; Order 1101, § 388-57-057, filed 2/25/76; Order 872, § 388-57-057, filed 11/16/73; Order 832, § 388-57-057, filed 7/26/73; Order 750, § 388-57-057, filed 12/7/72.]

**WAC 388-57-061 Refusal of training or employment under WIN without good cause.** (1) This section does not apply to a voluntary WIN registrant who discontinues participation in the program.

(2) If and for so long as an individual certified to the work incentive program has been determined by employment security to have refused without good cause to participate in the work incentive program or to accept a bona fide offer of employment in which he is able to engage:

(a) If such individual is a caretaker relative receiving AFDC, his (her) needs shall not be taken into account in determining the family's need for assistance, and assistance in the form of protective or vendor payments will be provided;

(b) If such individual is the only dependent child in the family, assistance for the family will be terminated; and

(c) If such individual is one of several dependent children in the family, assistance for such child will be terminated and his needs will not be taken into account in determining the family's need for assistance.

(3) The specified sanctions in subsection (2) shall not be applied during the period of 60 days in which the individual is being provided the counseling described in WAC 388-57-062 except that in the case of the caretaker relative receiving AFDC, assistance in behalf of him and his family will be provided in the form of protective or vendor payments as described in WAC 388-33-450.

(4) In the event an individual certified to the work incentive program refuses to accept employment offered to him by an employer, whether directly or through the employment service, the determination as to whether the offer was bona fide or there was good cause to refuse the offer will be made by employment security and will be binding on the department.

(5) In the event an individual certified to employment security should need to be referred back to the department as having good cause for not continuing on a training plan or job, the department shall promptly restore the assistance payment to the individual if otherwise eligible or make other necessary payment adjustments. [Order 832, § 388-57-061, filed 7/26/73.]

**WAC 388-57-062 Refusal of training or employment under WIN without good cause—Counseling period.** (1) The department shall provide counseling for a period of up to 60 days to a mandatory registrant who is certified to the work incentive program and determined by employment security to have refused training or employment under the work incentive program without good cause for the purpose of persuading such individual to accept appropriate training or employment.

(2) The 60-day counseling period shall begin on the fifth business day after

(a) The expiration of the prescribed time period for filing a request for a hearing with employment security from a notice of proposed termination from the work incentive program or the date the request for a hearing is dismissed.

(b) If a hearing has been held, the date of the hearing officer's written decision finding that the participant has refused or failed to accept employment or participate in a work incentive program activity without good cause.

(c) Counseling may be terminated during the 60-day period when it becomes apparent that the counseling efforts are proving unsuccessful. A certified registrant who fails without good cause to appear for two or more counseling meetings shall be considered to have terminated the counseling.

(d) The 60-day counseling period shall not be provided to uncertified registrants.

(e) Certified registrants may be reaccepted into WIN at any time during counseling. Such individuals, if they subsequently refuse to participate without good cause, shall not receive another counseling period.

(3) Once a period of counseling has been provided to an individual and such individual has again been found by employment security to have refused training or employment under the work incentive program without good cause, the department shall not provide another period of counseling. [Order 1165, § 388-57-062, filed 10/27/76; Order 832, § 388-57-062, filed 7/26/73.]

**WAC 388-57-064 Refusal of training or employment under WIN without good cause—Reregistration and reacceptance to WIN.** (1) An individual who has been deregistered because of failure to accept employment or to participate in the WIN program without good cause may again register for WIN, provided 90 days have elapsed since deregistration and the individual has given evidence to employment security of willingness to participate.

(2) An individual who has been reaccepted into the work incentive program after termination without good cause and who is subsequently terminated for refusal to accept employment or to participate in the work incentive program without good cause shall not be registered for or reaccepted in the work incentive program unless he has given satisfactory evidence to employment security of willingness to participate and six months have elapsed since the effective date of the latest deregistration.

(3) Reacceptance in the work incentive program may be denied where the termination action was the result of the individual's disruptive behavior or of criminal or other activities which presented a hazard to the staff or other participants.

(4) Reacceptance may also be denied where employment security determines that the individual's 60-day counseling was not successful and that readmission would be disruptive to the orderly administration of the activity. [Order 1165, § 388-57-064, filed 10/27/76; Order 1118, § 388-57-064, filed 5/13/76; Order 832, § 388-57-064, filed 7/26/73.]

**WAC 388-57-070 Economic social service office—State employment service joint case responsibility.** The ESSO shall participate with the local state employment service office in appraisal of registrants for participation in the WIN program; joint participation is also required in resolving disputes between WIN and the applicant or recipient. [Order 1165, § 388-57-070, filed 10/27/76; Order 750, § 388-57-070, filed 12/7/72; Order 544, § 388-57-070, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-070, filed 2/14/69.]

**WAC 388-57-090 Refusal of training or employment under WIN without good cause—Fair hearings.** (1) An AFDC applicant who claims that he is exempt from WIN registration as provided in WAC 388-24-

107 shall be considered as exempt until his status is finally determined.

(2) An individual who is dissatisfied with the determination that he (she) must register for the work incentive program as provided in WAC 388-24-107 may request a fair hearing.

(3) Employment security has responsibility for hearing and deciding disputes over their decisions involving refusal or failure on the part of a registrant or participant to accept employment or to participate in the work incentive program without good cause. Refer to WAC 192-09-430 through WAC 192-10-330. [Order 1118, § 388-57-090, filed 5/13/76; Order 832, § 388-57-090, filed 7/26/73; Order 750, § 388-57-090, filed 12/7/72; Order 544, § 388-57-090, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-090, filed 2/14/69.]

### Chapter 388-59 WAC

#### EMERGENCY ASSISTANCE AS LOANS TO SUPPLEMENTAL SECURITY INCOME BENEFICIARIES

##### WAC

388-59-010	State supplementary payments—Definitions.
388-59-020	State supplementary payments—General provisions.
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388-59-050	State supplementary payments—Additional requirements under specified circumstances—Chore services.
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388-59-070	Mandatory state supplementary payments—Determining amount.
388-59-080	Mandatory state supplementary payments—Reduction.
388-59-090	Mandatory state supplementary payments—Termination of eligibility.
388-59-100	Representative payee.

##### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-59-120	Representative payee—Immediate hardship. [Order 910, § 388-59-120, filed 3/1/74.] Repealed by Order 940, filed 6/10/74 before publication in WAC.
388-59-130	Representative payee—Monthly standards for emergency payments. [Order 910, § 388-59-130, filed 3/1/74.] Repealed by Order 940, filed 6/10/74 before publication in WAC.
388-59-140	Representative payee—Application—Verification—Payment. [Order 910, § 388-59-140, filed 3/1/74.] Repealed by Order 940, filed 6/10/74 before publication in WAC.

**WAC 388-59-010 State supplementary payments—Definitions.** (1) "Supplemental security income program" (SSI) means the Federal program of supplemental security income for the aged, blind, and disabled established by section 301 of the social security amendments of 1972, and subsequently amended by Public Law 93-66, and administered by the social security administration (SSA).

(2) "Supplementary payment" means the money payment determined to be payable by SSA on behalf of the state to individuals receiving benefits under Title XVI

(or would but for their income be eligible for such benefits) as assistance based on need in supplementation of SSI benefits.

(3) "Federal benefits" means the money payment determined to be payable as the SSI amount.

(4) "Mandatory state supplement" means the money payment determined to be payable by SSA on behalf of the state with respect to individuals who, for December 1973, were recipients of money payments under the department's former programs of old age assistance, aid to the blind and disability assistance.

(5) "Optional state supplement" means the money payment elected by the state and determined to be payable by SSA on behalf of the state to individuals eligible for SSI benefits on or after January 1, 1974.

(6) "Eligible individual" means an aged, blind or disabled person as defined in Title XVI of the social security act. If two such persons are husband and wife (and have not been living apart for more than six months) only one of them may be considered an eligible individual.

(7) "Eligible spouse" means an aged, blind or disabled individual who is the husband or wife of an eligible individual and who has not been living apart from such eligible individual for more than six months.

(8) "Eligible couple" means an eligible individual and eligible spouse.

(9) "Essential person" means a person whose needs were taken into account in determining the need of an OAA, AB, or DA recipient for December 1973, who lives in the home of such recipient, and who is not an eligible individual or eligible spouse.

(10) "OAA, AB, DA" means the department's programs of old age assistance, aid to the blind and disability assistance under Titles I, X and XIV of the social security act and repealed by Public Law 92-603 effective January 1, 1974.

(11) "Grandfathering" means the process by which OAA, AB, and DA grants for December, 1973, are converted to SSI and state supplementary payments effective January 1, 1974. [Order 910, § 388-59-010, filed 3/1/74.]

**WAC 388-59-020 State supplementary payments—General provisions.** (1) State supplementary payments are administered by the social security administration (SSA) pursuant to an agreement with the department.

(2) The social security administration shall make determinations of eligibility for state supplementary payments with respect to individuals residing in the state who are or will be receiving (or would but for their income be eligible to receive) basic federal payments, and shall make determinations of eligibility for mandatory state supplements.

(3) The social security administration shall make state supplementary payments to individuals determined to be eligible in such amounts as agreed upon with the department.

(4) The social security administration shall provide individuals reasonable notice and opportunity for a hearing with respect to findings of fact and decisions as

to the rights of such individuals applying for optional state supplementary payments or mandatory state supplementary payments.

(5) The SSA shall impose deductions against state supplementary payments, as prescribed by the department, on eligible persons for failure to comply with reporting requirements established by the Department. [Order 910, § 388-59-020, filed 3/1/74.]

**WAC 388-59-030 State supplementary payments—Establishing eligibility.** (1) The supplemental security income application form shall serve as an application for a state supplementary payment.

(2) Any individual who is eligible to receive supplementary payments or who would be eligible to receive such payments may waive his right to do so if he makes a written request for waiver.

(3) Any individual who has waived supplementary payments may revoke such waiver at anytime by making a written request to the social security office.

(4) A "grandfathered" recipient retains such status as long as he continues to meet the eligibility requirements for OAA, AB and DA in effect for the state programs prior to January 1, 1974. [Order 910, § 388-59-030, filed 3/1/74.]

**WAC 388-59-040 State supplementary payments—Amount.** (1) The amounts of state supplementary payments shall be as specified pursuant to the department's agreement with SSA.

(2) The payment level of state supplementary payments made to eligible individuals and couples may vary according to geographical location and type of living arrangement.

(3) Countable income, of an eligible individual or eligible couple, is determined in the same manner as such income is determined under SSI. Countable income affects the amount of state supplementary payments as follows:

(a) Countable income shall first be deducted from the basic federal benefit amount payable to an eligible individual or eligible couple.

(b) If countable income is equal to or less than the amount of the federal benefit rate, the full amount of the state supplementary payment as specified in the department's agreement with SSA shall be made.

(c) If countable income exceeds the amount of the federal benefit rate, the state supplementary payment shall be reduced by the amount of such excess.

(d) No state supplementary payment shall be made where countable income is equal to or exceeds the sum of the federal benefit rate and the state supplementary payment rate.

(4) A state supplementary payment shall be made on a monthly basis and shall be included in the same check as a federal benefit is payable. It shall be for the same month as the federal benefit. [Order 910, § 388-59-040, filed 3/1/74.]

**WAC 388-59-050 State supplementary payments—Additional requirements under specified circumstances—Chore services.** (1) The department shall

determine need and make payment for additional requirements as provided in WAC 388-28-150 through 388-28-235 to recipients of state supplementary payments.

(2) Recipients of SSI and/or state supplementary payments are eligible for chore services as provided in WAC 388-16-425 through 388-16-440. [Order 910, § 388-59-050, filed 3/1/74.]

**WAC 388-59-060 State supplementary payments—Overpayment and underpayment.** (1) Upon determination that an overpayment has been made, adjustments will be made against future state supplementary payments for which the person is entitled.

(2) Recoupment procedures in effect for recovery of SSI benefit overpayments shall also apply to the recovery of state supplementary overpaid amounts.

(3) The department may initiate its own recoupment in the event an individual has been overpaid and is no longer receiving a state supplementary payment.

(4) Upon determination that an underpayment of state supplementary payments is due and payable, the underpaid amount shall be paid to the underpaid claimant directly.

(5) If the underpaid person dies before receiving the underpaid amount of state supplementary payment, the underpaid amount shall be paid to the claimant's eligible spouse. If the deceased claimant has no eligible spouse, no payment of the underpaid amount shall be made. [Order 910, § 388-59-060, filed 3/1/74.]

**WAC 388-59-070 Mandatory state supplementary payments—Determining amount.** (1) For individuals receiving OAA, AB or DA during December 1973 the amount of a state supplementary payment shall be

(a) The amount by which such individual or couple's December 1973 income exceeds the amount of SSI benefit plus other income used in computing assistance payable for such month, or

(b) The optional supplemental payment as determined by the department if such is a greater amount.

(2) "December 1973 income" means an amount equal to the sum of

(a) Money payments an individual would have received as a recipient of OAA, AB or DA according to rules in effect for June 1973 relating to eligibility for and amount of such payments, and

(b) The amount of the income of such individual other than public assistance money payments received by such individual in December 1973 after applying all appropriate income exclusions.

(3) A reduction shall be made for income not properly reported which would have resulted in a reduction of public assistance. [Order 910, § 388-59-070, filed 3/1/74.]

**WAC 388-59-080 Mandatory state supplementary payments—Reduction.** (1) If for any month after December 1973 there is a change with respect to any special need or special circumstance which, if such change had existed in December 1973, would have caused a reduction in the amount of such individual's



OAA, AB or DA payment, then for such month and for each month thereafter, the amount of the mandatory state supplement payable to such individual shall be reduced as provided by rules in effect for OAA, AB or DA for the month of June 1973.

(2) A mandatory state supplementary payment shall not be adjusted to a higher amount than that computed as payable for January 1974. [Order 910, § 388-59-080, filed 3/1/74.]

**WAC 388-59-090 Mandatory state supplementary payments—Termination of eligibility.** An individual eligible for mandatory state supplementary payments beginning in January 1974 shall not be eligible for such payments.

(1) Beginning with the month after the month in which such individual dies, or

(2) The first month after the month in which such individual ceases to meet the definition of aged, blind or disabled under which he received assistance for December 1973, except that

(3) No individual shall be entitled to receive a mandatory supplementary payment for any month in which such individual was ineligible to receive SSI because such individual:

(a) Throughout such month is an inmate of a public institution, or

(b) Fails within 30 days to take all appropriate steps to apply for and, if eligible, obtain benefits as specified by SSA, or

(c) Is eligible solely by reason of disability and medically determined to be a drug addict or an alcoholic unless such individual is undergoing treatment as required by SSA, or

(d) For any month during all of which such individual is outside the United States, or

(e) Is under 65 and refuses without good cause to accept vocational services for which he is referred by SSA. [Order 910, § 388-59-090, filed 3/1/74.]

**WAC 388-59-100 Representative payee.** The secretary may act as representative payee for a child eligible for SSI benefits. [Order 1194, § 388-59-100, filed 3/3/77; Order 910, § 388-59-100, filed 3/1/74.]

### Chapter 388-62 WAC

#### REPATRIATED UNITED STATES CITIZENS— ASSISTANCE

##### WAC

388-62-020	Repatriated United States citizens—Program objectives.
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388-62-190	Repatriated United States citizens—Safeguarding information.
388-62-200	Repatriated United States citizens—Reimbursement and assignment of claims.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-62-010	Assistance for United States citizens returned from foreign countries. [Regulation 26.00, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-030	Administration—General. [Regulation 26.20, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-055	Referral and identification of persons. [Regulation 26.31, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-060	Referral procedure. [Regulation 26.32, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-105	Payments of assistance—Medical care. [Regulation 26.53, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-180	Recording. [Regulation 26.80, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-185	Reporting. [Regulation 26.81, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-205	Form for assignment of claim to United States for assistance received under Section 1113 of the Social Security Act. [Regulation 26.91, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.

**WAC 388-62-020 Repatriated United States citizens—Program objectives.** The purpose of this program is to help needy U.S. citizens and their dependents returned from foreign countries for the period necessary and to enable them to utilize other resources for maintenance as soon as possible. A person is needy who does not have sufficient resources immediately available to meet his requirements for living. The intent is to provide assistance only for a limited period of time to persons who are without available resources. Recipients of temporary assistance, with some exceptions, are required to repay the cost of such assistance to the United States in accordance with their ability. [Order 546, § 388-62-020, filed 3/31/71, effective 5/1/71; Regulation 26.10, filed 1/24/64.]

**WAC 388-62-035 Repatriated United States citizens—Department responsibilities.** (1) Persons returning from foreign countries because of destitution or illness are likely to have urgent needs and hence it is essential that needed services are rendered as quickly as possible.

(2) The local office is responsible for developing a plan with relatives, the person and dependents who return, and with social agencies for reception and resettlement. In carrying out the plan, the local office provides

transportation, financial assistance, medical care and hospitalization, and social service for adults and unaccompanied children as needed. It may be necessary to perform the following activities in carrying out this responsibility:

(a) Conduct a social study, before or after return to this country, regarding possibilities of employment, the willingness and ability of relatives to assist the individual, and other resources available for self-support, or if it appears that there may be need for assistance indefinitely the possibility of obtaining assistance in the state of residence or elsewhere.

(b) Meet the returning person and dependents at the port of entry and help them with problems aggravated or induced by illness, and to develop resources available for self-support, or, if it appears they may be in need indefinitely, the possibility of obtaining assistance in the state of residence or elsewhere.

(c) Arrange for transportation from the port of entry to place of residence or other destination, if after social study this is in the best interests of the individual.

(d) Refer persons to available employment, retraining, vocational rehabilitation, and medical services.

(e) Assure safeguards for children not under the immediate care and protection of their parents. Agency responsibility for unaccompanied minor children should not end until adequate legal protection is established.

(f) Inform persons requesting assistance of the provisions governing repayment to the United States of the cost of assistance and make recommendations to USDHEW as to their financial ability to repay. [Order 969, § 388-62-035, filed 9/13/74; Order 546, § 388-62-035, filed 3/31/71, effective 5/1/71; Regulation 26.21, filed 1/24/64.]

**WAC 388-62-050 Persons served.** (1) To qualify for help from the program, an individual must be:

(a) A U.S. citizen or a dependent of a U.S. citizen (returned from a foreign country)

(b) Identified by the department of state as returned or brought from a foreign country because of destitution or illness

(c) Without resources immediately accessible to meet his needs

(2) Within the above-identified coverage are U.S. citizens and their dependents who have returned from Cuba on or after September 1, 1960. [Regulation 26.30, filed 1/24/64.]

**WAC 388-62-070 Repatriated United States citizens—Eligibility.** (1) To qualify for help from the program, an individual must be

(a) a U.S. citizen or a dependent of a U.S. citizen returning from a foreign country,

(b) identified by the department of state as returned or brought from a foreign country because of destitution, or illness other than mental illness,

(c) without resources immediately accessible to meet his needs.

(2) Within the above identified coverage are U.S. citizens and their dependents who have returned from Cuba on or after September 1, 1960.

(3) Except in the case of U.S. citizens who have returned from Cuba, the need for financial assistance and medical care is the only factor of eligibility to be determined by the ESSO. The fact that an individual may have resources in a foreign country does not make him ineligible if the foreign country prohibits their removal.

(4) Temporary assistance under this program is limited to the first 90 days from the date of arrival of the person in the United States. If a person is handicapped in attaining self-support or self-care due to age, disability, lack of vocational preparation or similar reasons, an extension beyond the above limit may be requested from the Secretary of USDHEW. [Order 1082, § 388-62-070, filed 12/24/75; Order 546, § 388-62-070, filed 3/31/71, effective 5/1/71; Regulation 26.40, filed 1/24/64.]

**WAC 388-62-075 Repatriated United States citizens—Standards of assistance.** (1) Temporary assistance as used herein means money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals including guidance, counseling, and other welfare services. Assistance provided to adult repatriates shall be based upon supplemental security income standards, including the state supplement. The department's standards for the aid to families with dependent children or for foster care shall be used in determining the amount of financial assistance needed for families, with such adaptation as may be necessary due to the composition of the family, and without the use of the maximum cost standards for requirements.

(2) In determining the amount necessary for current and continuing self-support, consideration shall be given to the requirements of dependents, mortgage payments on real property occupied by the recipient as his home, for life insurance premiums, and for payments on obligations including medical bills.

(3) Depending upon the circumstances relating to repatriation, assistance may be granted to individuals and families in their own homes or for their maintenance in congregate facilities, and for board and room in hotels or private homes. Provision may also be made for

(a) Transportation to their place of residence, to their relatives, or to a place where they can be resettled. The least costly and most direct means of transportation should be used unless effective service to the individual calls for providing other accommodations. Transportation also includes travel expenses, such as meals and lodging enroute and assistance with luggage, checking, storage, or transportation of personal effects.

(b) The cost of a special diet recommended by a physician

(c) Purchase of restaurant meals

(d) Housing arrangements to provide adequate accommodations

(e) Essential clothing for an initial supply and for the maintenance and replacement of such supply

(f) Medical and hospital care which a physician considers necessary because of the condition of the individual's health. Ordinarily, medical or hospital care at the port of entry is intended for treatment of acute illness

which prevents the individual from traveling to his final destination where he would be able to obtain more complete care — see WAC 388-83-045.

(g) Communication by phone or telegraph to contact relatives, friends, or former employers to obtain access to resources for self-support.

(4) If it appears that a person may need financial assistance for maintenance after he reaches his destination, the local office, in addition to supplying transportation from the port of entry, may also provide sufficient funds for maintenance until he can contact the state-local agency on arrival at his destination. If foster care is required, standards for that program are used.

(5) Within 60 days after arrival in the United States, all persons who are 65 years of age, blind or disabled, shall be referred to the social security administration to apply for supplemental security income benefits. Assistance from the repatriate program shall be terminated immediately upon determination of eligibility for supplemental security income benefits. [Order 969, § 388-62-075, filed 9/13/74; Order 546, § 388-62-075, filed 3/31/71, effective 5/1/71; Regulation 26.41, filed 1/24/64.]

**WAC 388-62-080 Repatriated United States citizens—Resources.** (1) The resources considered in an emergency shall be only those immediately accessible for use at the time financial assistance is needed. Resources may be considered to be immediately accessible when they are in existence, the value is ascertainable, they are under the control of the individual, and he can draw upon them for maintenance.

(2) An individual may have resources through the company which employed him prior to repatriation. This company or former employer may assist their employee by financing transportation costs, living expenses, medical care, etc. Eligibility for benefits and assistance under established income maintenance programs should be considered a resource and help in securing such resources should be provided as soon as possible. [Order 546, § 388-62-080, filed 3/31/71, effective 5/1/71; Regulation 26.42, filed 1/24/64.]

**WAC 388-62-095 Repatriated United States citizens—Assistance payments—Types of grants.** Assistance is granted in cash or in kind to the recipient or in his behalf. It may be more convenient to grant assistance in kind at the port of entry and for transportation to the place of residence or resettlement. Cash assistance when needed temporarily in the place of residence or resettlement may be more appropriate. If there is no adult to whom a money payment can be made, or when congregate or other group care is purchased, payment can be made to vendors. [Order 546, § 388-62-095, filed 3/31/71, effective 5/1/71; Regulation 26.51, filed 1/24/64.]

**WAC 388-62-100 Payments of assistance—Grants.** (1) Grants for repatriated U.S. nationals shall be authorized and paid by use of procedures specified for general assistance noncontinuing assistance in chapter 388-62 WAC, except when foster care is authorized.

(2) SF 4595-B or SF 4595-B(T) certification of cash noncontinuing assistance, is used to certify a cash grant. SF 2600, disbursing order, is used to authorize a vendor payment.

(3) SF 5822-G, authorization of noncontinuing assistance, shall be used to compute and authorize grants.

(4) If foster care is required, payment is authorized by county office submittal of a voucher (A 19-PA1) to the state office monthly with appropriate codes entered. SF 5822-C is not used. [Regulation 26.52, filed 1/24/64.]

**WAC 388-62-115 Repatriated United States citizens—Duration of assistance.** The need for assistance is expected to be temporary since most returning United States citizens will be able to develop sufficient resources for maintenance or will soon be able to manage for themselves without financial help. If necessary, assistance may be continued on a temporary basis after the individual or family arrives at the place of residence or resettlement while the agency in the state of residence or resettlement makes a more complete investigation to determine need for further assistance, the amount of assistance required and the availability of other assistance or benefits. Assistance may be continued to persons without available resources until they become self-supporting or until their eligibility is established for assistance under any other public assistance program. If assistance is needed beyond the period of reception, the local office should review the recipient's situation at frequent intervals to assure that the need for assistance continues and that no other arrangements for maintenance can be made. [Order 546, § 388-62-115, filed 3/31/71, effective 5/1/71; Regulation 26.55, filed 1/24/64.]

**WAC 388-62-130 Repatriated United States citizens—Welfare services.** Welfare services are all services other than financial assistance to help individuals or families adapt to the changes in their circumstances and to become self-sustaining as quickly as possible. These services may include counseling and referral in regard to employment, re-training, care and education of children, and resettlement. Most repatriated persons will have roots somewhere in this country and therefore will want to leave the port of entry as soon as appropriate arrangements for travel can be made. [Order 546, § 388-62-130, filed 3/31/71, effective 5/1/71; Regulation 26.60, filed 1/24/64.]

**WAC 388-62-135 Repatriated United States citizens—Care and protection of children.** Services should be provided for the care and protection of children, including care of children in foster homes or institutions. Social services or arrangements for facilities that supplement or substitute for parental care and supervision shall be made available as needed through the child welfare services program. Such services and assistance shall conform to the department's standards for foster home, receiving home, or institutional care. Recognized child welfare practices shall be observed in protecting the welfare of an unaccompanied minor child. [Order

969, § 388-62-135, filed 9/13/74; Order 546, § 388-62-135, filed 3/31/71, effective 5/1/71; Regulation 26.61, filed 1/24/64.]

**WAC 388-62-155 Repatriated United States citizens—Food stamps.** Repatriated U.S. citizens may be certified for federal food coupons as non-continuing assistance recipients, or if they receive no assistance as non-recipients. [Order 546, § 388-62-155, filed 3/31/71, effective 5/1/71; Regulation 26.71, filed 1/24/64.]

**WAC 388-62-160 Repatriated United States citizens—Work incentive program.** Repatriated U.S. citizens shall not be referred to the work incentive program. [Order 546, § 388-62-160, filed 3/31/71, effective 5/1/71; Regulation 26.72, filed 1/24/64.]

**WAC 388-62-165 Repatriated United States citizens—Funeral-burial expenses.** An application for funeral or burial expenses for a repatriated U.S. citizen must be cleared with the department's regional administrator before payment is authorized. [Order 969, § 388-62-165, filed 9/13/74; Order 546, § 388-62-165, filed 3/31/71, effective 5/1/71; Regulation 26.73, filed 1/24/64.]

**WAC 388-62-170 Repatriated United States citizens—Related social services.** Social services available to public assistance recipients shall be furnished to any U.S. repatriated citizen who requests them, without regard to eligibility for financial assistance. [Order 546, § 388-62-170, filed 3/31/71, effective 5/1/71; Regulation 26.74, filed 1/24/64.]

**WAC 388-62-190 Repatriated United States citizens—Safeguarding information.** (1) The use of information obtained about persons who receive temporary assistance under this program must be limited to the purpose for which information was received. This limitation applies to

(a) Information about names and addresses including lists,

(b) Information furnished on applications, reports of investigations, medical reports, correspondence, and other records concerning the condition or circumstances of any person from whom or about whom information is obtained, whether recorded or not recorded,

(2) Local office evaluations of information may be released to another agency from whom the applicant has requested services and whose objective is the protection or advancement of his welfare. The basis for this disclosure is that the request constitutes an actual or implied consent for release of relevant information to such agency and a recognition that the release is to secure services for his benefit.

(3) Disclosure should be made only to representatives of other agencies which can give assurance that

(a) The confidential character of such information will be preserved,

(b) The information will be used only for the purposes for which it is made available, and for the functioning of the inquiring agency, and

(c) The standards of protection of the inquiring agency are equal to those of the department as to staff use of information and protective office equipment and procedures. This does not preclude disclosure upon proper inquiry of information about the presence of an eligible person in a hospital, or about his general condition and progress.

(4) Inspection of lists or rolls of persons furnished assistance under this program and publication of their names if prohibited. [Order 969, § 388-62-190, filed 9/13/74; Order 546, § 388-62-190, filed 3/31/71, effective 5/1/71; Regulation 26.82, filed 1/24/64.]

**WAC 388-62-200 Repatriated United States citizens—Reimbursement and assignment of claims.** (1) The local office function with respect to repayment is to

(a) Explain to an applicant that repayment is expected of persons with sufficient financial ability,

(b) Determine his ability to repay,

(c) Develop a plan of repayment when possible, and

(d) Recommend whether repayment is indicated.

(2) The kind and value of resources available to the individual or family and the obligations which must be met from these resources in the future must be explored. When possible, this evaluation should be made at the time assistance is approved for the individual.

(3) The department's rules and procedures for determining eligibility and need for federal aid are to be applied in this exploration, subject to the following:

(a) Ability to repay is considered to exist when resources in excess of continuing needs can be expected to become readily available to an individual within a reasonable period of time after self-support is attained. One year may be used as a reasonable period of time. It is not intended that an individual, in repaying the federal government, deplete himself of resources which he needs to become independent or to maintain his independence. Resources are considered readily available when they are under control of the individual and are sufficient both for this maintenance and for repayment.

(b) Real and personal property may be considered according to the department's rules as to kind and method of determining the value. Resources intended for a future contingency, such as life insurance, ordinarily would not be considered readily available for repayment.

(c) In exploring an individual's resources, any claim he has against any person, trust or estate, partnership, corporation, or government in a foreign country shall be considered. Such claims may be assigned to the United States according to section 1113 of the social security act in making repayment of assistance. Assignment of such claim to the United States shall be required if no other resource in excess of that necessary for maintenance is available to an individual for repayment of assistance. Assignments are governed by the law of the state in which the assignment is executed.

(d) Assistance of less than fifty dollars is impracticable for collection. Repayment ordinarily will not be sought for assistance to cover incidental small expenses,

such as overnight accommodations and meals in the course of reception, if no other assistance is furnished.

(4) As soon as an individual is found financially able to repay he shall be informed of the determination and the basis for it, and to discuss his plans for repayment.

(5) On termination of assistance, the USDHEW will notify the individual of the amount paid to him or in his behalf from information furnished by the department and will request repayment. Repayment should be made by personal check, cashier's check, or money order, payable (and sent directly) to the USDHEW, Washington, D.C., with sufficient identifying information to credit the payment properly. Checks made payable to the department of social and health services should be endorsed to the USDHEW. [Order 969, § 388-62-200, filed 9/13/74; Order 546, § 388-62-200, filed 3/31/71, effective 5/1/71; Regulation 26.90, filed 1/24/64.]

### Chapter 388-63 WAC

#### FAMILY HOME FOR RETARDED ADULTS

##### WAC

388-63-005	Family home for adults—Definitions and exceptions.
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388-63-070	Family home for retarded adults—Discrimination prohibited.
388-63-110	Adult family home—Placement—Care defined.
388-63-120	Determination of need for care and placement.
388-63-125	Exceptions to rules.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-63-130	Adult family home—Standards for approval for placement. [Order 954, § 388-63-130, filed 7/26/74; Order 813, § 388-63-130, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
388-63-140	Adult family home—Standards for home and sponsor. [Order 813, § 388-63-140, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
388-63-150	Adult family home—Services to be provided. [Order 813, § 388-63-150, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
388-63-160	Adult family home—Application for approval for placement—Home study. [Order 954, § 388-63-160, filed 7/26/74; Order 813, § 388-63-160, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.

**WAC 388-63-005 Family home for adults—Definitions and exceptions.** (1) "Department" refers to the department of social and health services of the state of

Washington, including its local economic and social service offices.

(2) A "foster-family home for adults" means an agency which regularly provides care to up to four adults in need of protection.

(3) A "family home" means a "foster family home for adults" which is a family dwelling in which adults are regularly received for care and supervision on a 24-hour basis in lieu of care in their own homes.

(a) Excluded from the definition of "foster family home for adults" are homes maintained by the legal guardians of, and by persons related by blood or marriage (parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, first cousin) to the person receiving care.

(4) "Retarded adult" is one who is exceptional in his needs for care, treatment and education by reason of mental deficiency.

(5) "Mental deficiency" is a state of subnormal functioning of the human organism in consequence of which the individual affected is mentally incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support and social participation.

(6) An "adult in need of protection" is an individual age 18 or over who because of age, frailty, physical disability, mental confusion or disturbance, requires a degree of supervision, personal and social care.

(7) "Sponsor(s)" means person(s) providing, or intending to provide, family home care to retarded adults. [Order 1159, § 388-63-005, filed 10/6/76; Order 752, § 388-63-005, filed 12/14/72.]

**WAC 388-63-010 Capacity of home—Limitations on ages and numbers.** (1) The number of persons for whom a home will be licensed is dependent upon an evaluation of the physical accommodations of the home, the capacities and skills of the family members, and the ages and characteristics of the persons to be served.

(2) A family home shall not be licensed for the care of more than four adults.

(3) No home shall be licensed for the care of both children and adults, except with the written permission of the department. [Order 1159, § 388-63-010, filed 10/6/76; Order 752, § 388-63-010, filed 12/14/72.]

**WAC 388-63-015 Application for license.** Application for license for a family home is made to the local ESSO of the department in the county of the applicant's residence. The department shall either grant or deny a license within ninety days of receipt of an application. [Order 1159, § 388-63-015, filed 10/6/76; Order 752, § 388-63-015, filed 12/14/72.]

**WAC 388-63-020 Duration and provisions of license.** (1) A license is issued for a period of two years and is granted to specific persons and for a specific location only. Any change in location or household composition shall be reported to the department immediately. The license shall state the number of persons for which the home is authorized to care and the type of care for which the home is licensed. A request

for renewal of license shall be filed with the department ninety days prior to the expiration date of the license. If the department fails to act upon a timely request for renewal by the expiration date, the license shall continue in effect until such time as the department shall act.

(2) The department is required by law to license all homes caring for mentally retarded adults whether or not compensation is paid for the care and services rendered.

(3) There is no requirement for ESSO staff to license homes caring for other adults in need of protection who are not recipients of financial assistance or Title XX services. [Order 1159, § 388-63-020, filed 10/6/76; Order 752, § 388-63-020, filed 12/14/72.]

**WAC 388-63-025 Family home for retarded adults—Periodic visits—Consultation.** A representative of the department shall visit licensed homes periodically to determine whether there is compliance with requirements and to help improve their facilities and methods of care. [Order 752, § 388-63-025, filed 12/14/72.]

**WAC 388-63-030 Family home for retarded adults—Administrative hearing.** A person whose license is denied, suspended or revoked by the department may request an administrative hearing. Such request shall be made in writing and by certified mail to the secretary of the department within thirty days from the receipt of notice of the department's action. Administrative hearings shall be conducted in accordance with chapter 34.04 RCW (Administrative Procedures Act) and rules of practice and procedure adopted by the department. [Order 752, § 388-63-030, filed 12/14/72.]

**WAC 388-63-035 Family home for retarded adults—Register.** (1) Each family home shall maintain a register containing the following information about each person accepted for care:

(a) Name, birthdate, and dates of admission and discharge,

(b) Names, addresses, and telephone numbers (home and business) of responsible relative(s) or guardian, physician, and other persons to be notified in case of an emergency. [Order 752, § 388-63-035, filed 12/14/72.]

**WAC 388-63-040 Family home for retarded adults—Reporting illness, injuries and death.** Serious illness, injury or death of a person under care shall immediately be reported to the department or, in the case of a person not placed by the department, directly to the responsible relative or guardian and to the department. [Order 752, § 388-63-040, filed 12/14/72.]

**WAC 388-63-045 Family home for retarded adults—First aid—Medical care.** There must be a plan of action to be taken in event of medical emergencies and arrangements for the provision of needed medical care. No medication except as prescribed by a physician shall be given. [Order 752, § 388-63-045, filed 12/14/72.]

**WAC 388-63-050 Family home for retarded adults—Characteristics of family.** (1) There shall be evidence that the physical and mental health and character of all members of the household are consistent with the provision of good family home care. All persons caring for adults shall be emotionally stable and shall have the ability and personality suited to meeting the physical, mental, emotional and social needs of the persons in care.

(2) Character references are required at the time of application for initial license.

(3) For both initial license and renewal of license, the applicant shall review with the department the status of the health and physical condition of the members of his household. If question arises concerning a condition which would seem to adversely affect family home care, the applicant shall be required to submit a physician's statement in evaluation of such condition. In communities in which public health facilities provide examinations for tuberculosis, the applicant shall avail himself of these services and furnish evidence that members of the household over the age of fourteen years are free from contagious tuberculosis. [Order 1159, § 388-63-050, filed 10/6/76; Order 752, § 388-63-050, filed 12/14/72.]

**WAC 388-63-055 Family home for retarded adults—Discipline.** Discipline shall be remedial rather than punitive and shall be based on an understanding of the person's needs and state of development. Discipline shall be directed toward teaching acceptable behavior and respect for the rights of others. Harsh or severe corporal punishment and humiliating or frightening punishment shall not be administered. [Order 752, § 388-63-055, filed 12/14/72.]

**WAC 388-63-060 Family home for retarded adults—Physical aspects of home.** (1) The home shall be in a neighborhood conducive to the general welfare of the persons receiving care. The dwelling and furnishing shall be clean, comfortable, and in good repair. The home and grounds shall be reasonably free from hazards. If question arises concerning fire danger, the local fire protection authority shall be consulted.

(2) Ventilation, light and heat to insure health and comfort shall be provided and there shall be facilities for sanitary storage, refrigeration, preparation and service of food.

(3) There shall be adequate space to accommodate all members of the household. This includes comfortable bedrooms with outside exposure and suitable bathing and toilet facilities.

(4) Each person under care shall be provided with a separate comfortable bed and appropriate bedding. Hallways, kitchens, living rooms, dining rooms, and unfinished basements shall not be used as sleeping quarters.

(5) Suitable storage space shall be provided for the personal belongings and clothing of each occupant. Individual towels and toilet articles shall be provided.

(6) Drinking water obtained from a private source must be approved by the county health department or

other authorized agency. The use of raw milk is prohibited. [Order 752, § 388-63-060, filed 12/14/72.]

**WAC 388-63-065 Family home for retarded adults—Other requirements in providing care.** (1) The family shall respect the department's responsibility for the planning for individuals under care.

(2) The family home sponsor shall not be employed outside the home except by agreement with the department.

(3) If it is necessary for the family home sponsors to be absent overnight, the department or responsible relative(s) or guardian shall be notified and suitable arrangements made for the care of the adult. Permission for travel on extended trips with family home sponsors shall be obtained from the department, or from responsible relative(s) or guardian.

(4) Family home sponsors shall not place a person in another home without the consent of the person, department, or of his responsible relative(s) or guardian.

(5) Family home sponsors shall provide opportunities for recreation within the family group and encourage participation in community activities in accord with the adult's capacity for such experience.

(6) Clothing of persons under care shall be kept clean and in good condition and shall be in keeping with the standards of the community.

(7) Family home sponsors shall supply a wholesome general diet of sufficient quantity and quality to meet the nutritional and physiological needs of the persons under care and such special diet or health program as may be directed by such person's physician.

(8) If the placement includes an employment arrangement, specific agreements as to duties and compensation shall be reached between the department, if applicable, the persons under care, and the family home sponsors. Compensation shall be paid at regular intervals. Work duties shall be in keeping with the person's capacity and other needs.

(9) The family home sponsors shall assist and encourage the adult guest to

(a) Seek, obtain and continue appropriate training and employment;

(b) Maintain an adequate personal appearance, good health and personal hygiene; to take medications prescribed by his physician; to keep medical appointments and to stay on prescribed diet;

(c) Participate in social and recreational activities and keep contact with his relatives and friends when appropriate;

(d) Attend church of his choice.

(10) The family home sponsors shall provide the adult guest with transportation on occasion and assist him with shopping, letter writing and other necessary activities.

(11) If the family home sponsors assume responsibility for the guest's money, a bookkeeping and accounting record shall be kept of all personal money and the balance of his funds shall be given to him when he leaves. The record of the money must be available for the guest, responsible relative, guardian, and the inspection of the department's representative. [Order 1159, § 388-63-

065, filed 10/6/76; Order 752, § 388-63-065, filed 12/14/72.]

**WAC 388-63-070 Family home for retarded adults—Discrimination prohibited.** (1) In providing services a family home shall not discriminate because of race, creed, color or national origin.

(2) A family home which wishes to serve only members of a particular religious denomination shall not be deemed to practice discrimination unless it specifically excludes from the benefits of its program members of specified other denominations, or if it discriminates based on race, color or national origin. [Order 752, § 388-63-070, filed 12/14/72.]

**WAC 388-63-110 Adult family home—Placement—Care defined.** (1) Care in an adult family home shall mean family home living which includes board, room, laundry, necessary supervision, personal and social services and, when appropriate, minimal nursing care provided by a family home.

(2) Minimal nursing care is nursing care not equal to 24-hour nursing service as required in a licensed nursing home, but such nursing care as is determined by the nursing care consultant may be safely given in a family home.

(3) If providing a minimum of nursing care, the sponsor or a member of his family shall be a registered nurse or licensed practical nurse not working full time outside the home. Such registered or licensed practical nurse shall give needed nursing care under a licensed physician's direction. [Order 1159, § 388-63-110, filed 10/6/76; Order 954, § 388-63-110, filed 7/26/74; Order 813, § 388-63-110, filed 6/28/73.]

**WAC 388-63-120 Determination of need for care and placement.** (1) Care in an adult family home is approved when a service worker in intake or services, as appropriate, determines the individual needs such care. The service worker determines the type of care needed and that such care can be provided by the home selected for placement.

(2) The nursing care consultant determines when an adult needs minimal nursing care as appropriate for the particular adult in a specific family home.

(3) The service worker arranges the individual's placement in an adult family home and any necessary replacements. Insofar as possible the placement plan is made with the individual and/or his relatives and a home selected which most nearly meets his physical and psychological needs.

(4) The service worker shall reevaluate, as often as the case plan indicates, but at least every six months, the individual's continuing adjustment in the adult family home and continued need for care. If the individual receives nursing care, the nursing care consultant shall reevaluate his nursing needs and the quality of nursing care he receives at least every three months, or oftener, if needed. [Order 1159, § 388-63-120, filed 10/6/76; Order 954, § 388-63-120, filed 7/26/74; Order 813, § 388-63-120, filed 6/28/73.]

**WAC 388-63-125 Exceptions to rules.** In individual cases the department, at its discretion, may waive specific requirements which because of the cultural patterns of the persons served or which for other reasons are inappropriate, and may approve alternative methods of achieving the intent of specific requirements if such waiver or approval does not jeopardize the safety or welfare of the persons in care. Licenses issued under the provisions of this section may be limited or restricted by the department. Special attention shall be given to implementing these licensing standards in a manner consistent with the unique legal-social and cultural status of Indian tribes, communities and individuals. [Order 1159, § 388-63-125, filed 10/6/76.]

**Chapter 388-70 WAC**

**CHILD WELFARE SERVICES—FOSTER CARE—ADOPTION SERVICES—SERVICES TO UNMARRIED PARENTS**

**WAC**

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**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 388-70-015 Foster care—Definition. [Order 623, § 388-70-015, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-018 Foster care—Duration of service. [Order 623, § 388-70-018, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-020 Services offered. [Regulation 70.020, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.



- 388-70-025 Foster care—Eligibility. [Order 623, § 388-70-025, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-030 Application and requests for child welfare services. [Regulation 70.030, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-040 Foster care—Request for services. [Order 623, § 388-70-040, filed 10/27/71; Regulation 70.040, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-043 Foster care—Authorization for placement. [Order 763, § 388-70-043, filed 1/10/73; Order 623, § 388-70-043, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-046 Foster care—Rights of natural parents of child. [Order 623, § 388-70-046, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-050 Requests from parents. [Regulation 70.050, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-052 Overpayments of foster care. [Order 913, § 388-70-052, filed 3/1/74.] Repealed by Order 1186, filed 2/3/77.
- 388-70-055 Foster care—Responsibility of foster parents. [Order 623, § 388-70-055, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-060 Services to the child in his own home. [Regulation 70.060, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-065 Foster care—Payment. [Order 623, § 388-70-065, filed 10/27/71.] Repealed by Order 825, filed 7/26/73.
- 388-70-070 Referrals to juvenile court. [Regulation 70.070, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-080 Foster care. [Regulation 70.080, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-085 Foster care—Determination of parents' financial ability to support child. [Order 623, § 388-70-085, filed 10/27/71.] Repealed by Order 918, filed 3/14/74.
- 388-70-090 Payment for foster care. [Regulation 70.090, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-100 Adoption services. [Regulation 70.100, filed 3/22/60.] Repealed by Order 1167, filed 10/27/76.
- 388-70-120 Medical care. [Regulation 70.120, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-130 Foster homes. [Regulation 70.130, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-140 Interstate movement of children. [Regulation 70.140, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-150 Adoption studies for the superior court. [Regulation 70.150, filed 3/22/60.] Repealed by Order 1167, filed 10/27/76.
- 388-70-175 Veterans' benefits—Types of care. [Order 623, § 388-70-175, filed 10/27/71.] Repealed by Order 825, filed 7/26/73.
- 388-70-180 Foster family care—Standards for payment. [Order 825, § 388-70-180, filed 7/26/73; Order 763, § 388-70-180, filed 1/10/73; Order 654, § 388-70-180, filed 2/9/72; Order 623, § 388-70-180, filed 10/27/71; Order 554, § 388-70-180, filed 4/1/71; Order 418, § 388-70-180, filed 12/31/69; Regulation 70.180, filed 7/27/67; Regulation 70.180, filed 2/23/67, 12/28/66, 10/13/66, 3/31/66, 6/24/64, 9/26/63, 6/30/60, 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-183 Payment standards for regular foster family care. [Order 825, § 388-70-183, filed 7/26/73.] Repealed by Order 913, filed 3/1/74.
- 388-70-185 Payment standards for receiving home care. [Order 825, § 388-70-185, filed 7/26/73.] Repealed by Order 913, filed 3/1/74.
- 388-70-187 Payment standards for specialized foster family care—Child with special needs. [Order 825, § 388-70-187, filed 7/26/73.] Repealed by Order 913, filed 3/1/74.
- 388-70-190 Payment standards for foster care in boarding school. [Order 825, § 388-70-190, filed 7/26/73 and repealed by Order 913, filed 3/1/74; Order 418, § 388-70-190, filed 12/31/69; Regulation 70.190, filed 7/27/67; Regulation 70.190, filed 3/31/66, 6/24/64, 9/26/63, 6/30/60, 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-200 Payment standards for foster care in boarding school—Payment to foster family receiving public assistance. [Order 623, § 388-70-200, filed 10/27/71; Order 554, § 388-70-200, filed 4/1/71; Order 418, § 388-70-200, filed 12/31/69; Regulation 70.200, filed 9/26/63; Regulation 70.200, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-210 Payment standards for foster care in boarding school—Payment to relative. [Order 623, § 388-70-210, filed 10/27/71; Regulation 70.210, filed 9/26/63; Regulation 70.210, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-216 Contractual relationships. [Order 1123, § 388-70-216, filed 6/7/76.] Repealed by Order 1186, filed 2/3/77.
- 388-70-220 Payment standards for foster care in boarding school—Earnings of foster child. [Order 623, § 388-70-220, filed 10/27/71; Regulation 70.220, filed 6/24/64; Regulation 70.220, filed 9/26/63; Regulation 70.220, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-222 Payment standards for foster care in boarding school—Out-of-state authorization—Payment. [Order 623, § 388-70-222, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-225 Retroactive increase in old-age, survivors, and disability insurance and railroad retirement benefits—1965 amendments—Foster care. [Regulation 70.221, filed 10/1/65.] Repealed by Order 623, filed 10/27/71.
- 388-70-300 (Appendix A) Informational list of voluntary child care agencies and institutions and agreed rates. [Appendix A, filed 12/21/64, effective 2/1/65.] Repealed by Order 623, filed 10/27/71.

**WAC 388-70-010 Foster care—Legal basis. (1)**

The department is authorized by RCW 74.13.020 to provide child welfare services, including " \* \* \* adequate care of children away from their homes in family foster homes or day care \* \* \* ".

(2) Foster care payments are vendor payments of public assistance funds. See WAC 388-22-030(72). [Order 965, § 388-70-010, filed 8/29/74; Order 913, § 388-70-010, filed 3/1/74; Order 623, § 388-70-010, filed 10/27/71; Regulation 70.010, filed 3/22/60.]

**WAC 388-70-012 Foster care—Definitions. (1)**

"Foster care" is a 24-hour per day substitute care for the child whose parents cannot or will not provide normal family care for him.

(2) "Foster care" includes

- (a) The determination of need for foster care,
- (b) Payment for the care of a child in an approved family foster home (see WAC 388-70-022(2)),
- (c) The purchase of care from an approved private child placement agency, group home, or maternity home,
- (d) The referral of child to a private child caring agency or institution, in order to meet the child's specific needs,
- (e) The determination of the needs of the child,
- (f) The placement of the child in the type of foster care facility which best meets its needs,
- (g) Medical services according to the rules of the department's medical program,
- (h) Supervision of the foster care placement. This may be direct supervision through departmental case-work services; or indirect supervision through evaluation of periodic reports as specified in WAC 388-70-235

from private child caring agencies, institutions or maternity homes with whom the department has contractual arrangements.

(3) "Department" means department of social and health services including any division, office, or unit thereof.

(4) An application for foster care means a written statement in a form specified by the department to

(a) Establish the need for foster care, and

(b) Request payment for the care provided. [Order 1123, § 388-70-012, filed 6/7/76; Order 913, § 388-70-012, filed 3/1/74.]

**WAC 388-70-013 Authorization for foster care placement.** (1) Foster care may be provided to all children when:

(a) A child is held in care for up to 72 hours excluding Sundays and holidays under the authority of RCW 13.04.053 and RCW 74.13.031, at which time a petition must be filed with the juvenile court or the child returned to his parents.

(b) A child is held in care beyond 72 hours excluding Sundays and holidays if the ESSO or private child caring agency receives a court order which authorizes holding a child for up to 30 days.

(c) A child cannot be detained for longer than 30 days unless the judge signs another order authorizing continued care, or the conditions in subdivision (2)(b) are met.

(2) The department may also accept a child for foster care and/or supervise the care given when:

(a) The child is a ward of the court and is in the legal custody of the department or in the legal custody of a private child caring agency with which the department has a contract.

(i) The parent(s) of a child removed from them by court order have the right to express in writing the religious preference of the child and to consent to provision of medical care. (See WAC 388-70-017)

(b) When the child is not a ward of the court and the child's natural or adoptive parent(s) or legal guardian(s) has requested placement by the department or a private child caring agency with which the department has a contract, the consent to place must be in writing on forms specified by the department including permission to furnish medical care. The parent(s) or guardian(s) may also express the religious preference of the child. If the parent(s) or guardian(s) who requested placement wish to withdraw their consent, they may do so in writing to the ESSO or the private child caring agency placing the child.

(i) If the child's parents are living together, both must sign the consent to place.

(ii) If the child's parents are not living together but legal custody has not been decided, both must sign the consent to place. If, however, one parent cannot be located, the parent with physical custody may sign the consent to place.

(iii) If the child's parents are divorced, the parent with legal custody must sign the consent to place. If the parents have joint custody both must sign the consent to place.

(c) A child committed to a state children's institution is in need of foster care placement. (See WAC 388-70-016(5)) [Order 1186, § 388-70-013, filed 2/3/77; Order 1123, § 388-70-013, filed 6/7/76.]

**WAC 388-70-014 Eligibility for foster care—Need.** (1) Foster care may be provided for any dependent child under 18 years of age who needs protection, is homeless, incorrigible, or neglected, or who cannot live with his own family because of conditions which threaten the child's normal development. A child adjudicated as delinquent is eligible only as provided in WAC 388-70-016(5) and WAC 388-70-013(2)(c). If a child in foster care is attending but has not finished high school when he reaches age 18, foster care payments may be continued until the high school program is completed. Such payments shall not be extended beyond age 21.

(2) A parent's inability or unwillingness to contribute to a child's support does not affect that child's need for and eligibility for foster care.

(3) Authorization for placement in foster care shall be obtained in accordance with WAC 388-70-013. [Order 1123, § 388-70-014, filed 6/7/76; Order 1040, § 388-70-014, filed 8/7/75; Order 965, § 388-70-014, filed 8/29/74; Order 913, § 388-70-014, filed 3/1/74.]

**WAC 388-70-016 Placement of child in foster care.** (1) Deleted.

(2) A child is placed for a planned period of time in a foster care facility which promotes normal maturation (care), which prevents further injury to the child (protection), and which assists in correction of specific problems that interfere with health personality development (treatment).

(3) An employee of the community services division shall not be licensed by an ESSO to provide foster care.

(4) An ESSO shall not place a child in the home of an employee of the community services division.

(5) A child in a state children's institution and in need of a foster care placement shall be referred to the juvenile parole counselor in the ESSO where the parents reside. Subsequent placement shall be made by a caseworker or a parole counselor. [Order 1138, § 388-70-016, filed 7/29/76; Order 1123, § 388-70-016, filed 6/7/76; Order 965, § 388-70-016, filed 8/29/74; Order 913, § 388-70-016, filed 3/1/74.]

**WAC 388-70-017 Rights of natural parents of child.** (1) Parents have the right to care, physical possession, and control of their child, and the right to administer reasonable disciplinary measures. They have responsibility to make far-reaching decisions regarding medical care, adoption, marriage, enlistment in the armed forces, residence of the child, religious affiliation of the child, as well as responsibility to represent him in legal actions. Concomitantly, parents have the duty to support and protect the child, to provide food, clothing, shelter, training, education, and medical care.

(2) When a parent enters into a voluntary agreement with a child welfare agency for placement of his child, he retains his full rights and duties with the exception of those which he agrees to delegate to an agency, and

which the agency undertakes to provide in his stead. In situations of voluntary placement, the parent has the full right to have the child returned to him upon request.

(3) After a court has made an award of legal temporary custody of the child's person, unless otherwise specified in the court order, residual parental rights are generally: the right to participate in the placement of the child, reasonable visitation, information about the child's whereabouts and conditions, determination of religious affiliation, consent to medical care, adoption, inheritance and the right to notice and appearance at judicial proceedings involving the child.

(4) Responsibility for financial support remains with the parent(s) as specified in WAC 388-70-075, 388-70-078 and 388-70-080.

(5) In cases of deprivation and permanent wardship, there are no residual parental rights. [Order 1123, § 388-70-017, filed 6/7/76; Order 913, § 388-70-017, filed 3/1/74.]

**WAC 388-70-019 Responsibility of foster parents.**

(1) Foster parents are responsible for providing the physical care and training of the child, arranging for routine medical care, educational planning, and such other parental activities associated with the day-by-day care of a child.

(2) Foster parents may not:

(a) Arrange for major medical care for the child without court, department or parental permission,

(b) Arrange for the child's prolonged care outside their home,

(c) Consent to the child's adoption, marriage, or enlistment in the armed services,

(d) Take the child out of the state without permission,

(e) Engage in any other activity on behalf of the child which conflicts with the rights of the legal custodian and/or guardian, provided that written authorization by the court or the agency may modify or enlarge upon the rights and responsibilities of the foster parents. [Order 913, § 388-70-019, filed 3/1/74.]

**WAC 388-70-022 Payment of foster care.** (1) Payment is made for foster care upon:

(a) Documentation of the need for foster care as determined by the department and

(b) Documentation of authority for the placement of a child in foster care as required by WAC 388-70-013 and

(c) Receipt of a request for payment of the care to be provided.

(d) **EXCEPTION:** Payment is made to foster parents for a youth in the probation subsidy program when that youth has not been adjudicated delinquent, is in need of a foster care placement and would lose the benefits of the subsidy program if the child's relationship with the probation officer were disrupted.

(2) All persons and agencies to whom the department makes payment must be appropriately licensed and approved, or, if not subject to licensing, be certified or otherwise approved as meeting licensing or other appropriate requirements of the department.

(3) Payment is made for out-of-state foster care placements only after approval from the two state offices involved.

(4) In all instances, authorization of payment is the responsibility of financial services and the determination of the amount of parental support, except when stated in a superior court order, is the responsibility of the office of support enforcement. [Order 1260, § 388-70-022, filed 12/29/77, effective 2/1/78; Order 1123, § 388-70-022, filed 6/7/76; Order 913, § 388-70-022, filed 3/1/74.]

**WAC 388-70-024 Payment of foster care—Effective date.**

(1) A foster care payment is effective the date a child is placed in care if an application for foster care payment is received within seven working days of placement. If an application is not received within seven working days of placement, the effective date of care is the date the application is received.

(2) The effective date of termination of foster care payments is the date the child no longer needs foster care or reaches the age of 18. If the child is attending but has not finished high school at the age of 18, payments shall be terminated on the date the high school program is completed. Such payments shall not be extended beyond age 21.

(3) Foster care payment terminated for a child who is a court ward and who returns to the same placement within 30 days of the date of termination may be reinstated by submitting a child in foster care-change in status report, provided that

(a) No other change in circumstances has occurred, and

(b) A copy of the change in status report is forwarded to the department's office of support enforcement. [Order 1123, § 388-70-024, filed 6/7/76; Order 1040, § 388-70-024, filed 8/7/75; Order 1020, § 388-70-024, filed 4/29/75; Order 913, § 388-70-024, filed 3/1/74.]

**WAC 388-70-041 Payment standards—Foster family care.**

(1) The standards of payment in WAC 388-70-042 through 388-70-048 for foster family care for children eligible for departmental support apply equally to foster family homes under the direct supervision of the department and those under the supervision of voluntary child care agencies.

(2) The payment plan for all types of foster family care shall be determined through the study of the needs and resources of each child. The plan must, in all cases, be discussed with the foster parent so that he knows the basis for payment and the amount included for each item. The case record must also contain an explicit statement of the financial arrangement. [Order 913, § 388-70-041, filed 3/1/74.]

**WAC 388-70-042 Payment standards—Regular foster family care.** Effective July 1, 1977, foster care payment standards shall be as follows:

(1) The board payment for foster care of a child in a family foster home is ninety three dollars per month for a child less than six years of age, one hundred and twenty two dollars per month for children six through

eleven years of age and one hundred and forty seven dollars per month for a child twelve and over. For the purposes of determining the payment for board, the child's birthdate is considered to be the first of the month in which his birthday occurs.

(2) Foster parents shall be provided twelve dollars and fifty cents monthly for replacement of child's clothing and fourteen dollars and ninety five cents per month for personal incidentals including school supplies. The department does not provide an initial supply of clothing at time of placement. [Order 1260, § 388-70-042, filed 12/29/77, effective 2/1/78; Order 1149, § 388-70-042, filed 8/26/76; Order 1052, § 388-70-042, filed 9/10/75; Order 963, § 388-70-042, filed 8/19/74; Order 913, § 388-70-042, filed 3/1/74.]

**WAC 388-70-044 Payment standards—Receiving home care—Standards for using.** (1) The purpose and/or use of receiving home is to allow the department or private agency to care for a child in a foster family home on a temporary, emergent or interim basis in order that there be sufficient time for the development of a plan which includes the involvement of the child whenever possible.

(2) The two types of placements in receiving homes are emergency and regular. Placements under the conditions described in WAC 388-70-047 are classified as "emergency". All others are classified as "regular".

(3) Receiving homes supported by the department shall be limited to the number the ESSO administrator determines necessary in his geographical area. The criteria to be followed are:

(a) Each department or private agency shall document its need for a receiving home and present the request in writing, giving the specifics, to the ESSO administrator or to the regional administrator when more than one ESSO administrator is involved.

(b) All receiving homes shall be licensed as foster family homes.

(c) Receiving homes are developed to provide care up to 30 days.

(d) The need for receiving home(s) must carry a direct relationship to the department's or private agency's type of program and service responsibilities.

(e) The intent of the service is to allow the department or private agency to develop and carry out a suitable plan for the child.

(f) A child placed in a receiving home shall be in the custody of the department or private agency or there is written parental consent. In cases of self-referral, parental consent or approval of court is necessary before the child shall be accepted for care.

(g) A child placed "in lieu of detention" shall be returned to his parents within three days. If the child is to remain in receiving home care longer than 72 hours, a petition must be filed in juvenile court.

(4) Every six months the ESSO administrator shall receive a written report on each receiving home, resubstantiating its continued use and need.

(5) Foster family homes which regularly provide care for children on a temporary, emergent, or interim basis and are available for placement twenty-four hours per

day shall be designated as receiving homes. These homes shall be paid \$25 per month for each bed which is kept available for the emergency placement of children. In addition, the daily rate for receiving home care shall be eight dollars and twenty-two cents per day per child. Other foster homes which occasionally provide temporary, emergent, or interim care shall not be designated as receiving homes nor receive the retainer fee, but shall be reimbursed for such care at the receiving home rate of eight dollars and twenty-two cents per day per child.

(6) Temporary or emergency care for a child shall not exceed thirty days. After thirty days, the rate for children who remain in care in a receiving home shall be that for regular full time foster care except as authorized by the regional administrator. Clothing and personal incidentals are purchased for the child in receiving home care as needed.

(7) Private group care facilities may, at the discretion of the ESSO administrator, be utilized to provide interim care for children and youths requiring care in a group setting. Group care facilities shall be paid for providing interim care at their established daily rate. [Order 1260, § 388-70-044, filed 12/29/77, effective 2/1/78; Order 1208, § 388-70-044, filed 4/29/77; Order 1149, § 388-70-044, filed 8/26/76; Order 1052, § 388-70-044, filed 9/10/75; Order 965, § 388-70-044, filed 8/29/74; Order 963, § 388-70-044, filed 8/19/74; Order 913, § 388-70-044, filed 3/1/74.]

**WAC 388-70-047 Emergency foster care assistance.** (1) Emergency foster care assistance is available to any child who:

(a) Is under the age of 18,

(b) Has lived with a relative or relatives as specified in WAC 388-24-125 within six months prior to the need for emergency foster care assistance,

(c) Is without resources immediately available to meet his needs, and

(d) Is not in need of foster care because he or his relative refused employment or training without good cause.

(2) Emergency foster care assistance may be provided through the use of:

(a) Receiving homes,

(b) Regular foster homes, or

(c) Any licensed child care facility.

(3) Placements under the conditions described below are classified as emergency foster care, provided the eligibility criteria outlined in subsection (1) is met.

(a) A runaway child is placed in temporary foster care, while plans are worked out for return to his own home or for other more permanent arrangements.

(b) A child picked up on the street by the police is placed in foster care in lieu of detention.

(c) A child needs immediate placement because of family crisis, such as illness, death or other emergency which requires the natural parent or foster mother to be away from the family.

(d) A child, detained on a holding order by juvenile court, is placed in foster care until a decision is made to return the child to his own home or some appropriate facility.

(4) Emergency foster care assistance is limited to a maximum of 30 consecutive days in any 12 month period. [Order 1052, § 388-70-047, filed 9/10/75.]

**WAC 388-70-048 Payment standards—Specialized foster family care—Child with special needs.** (1) In addition to the basic rates of payment for full-time regular foster care in WAC 388-70-042 for board, clothing and personal incidentals, an amount not to exceed the amounts in subsection (2) may be paid monthly for the care of children with special needs. These rates are effective July 1, 1976.

- | (2) Classification and description  | Amount to be Added to Regular Rate |
|---|------------------------------------|
| (a) The grossly retarded and/or severely handicapped child. The need for this classification shall be documented in the case record and be based upon a thorough evaluation by a competent professional person, such as a physician or qualified psychologist. Children in this group may show very slow and limited improvement. The child shall be provided with specialized care and training specific to his needs.   | Up to \$98.00                      |
| (b) The emotionally disturbed child. The need for this classification shall be documented in the child's case record. Examples of this type are the emotionally deprived younger child who shows excessive need for love, withdrawal, refusal to eat or excessive crying or the disturbed child of any age in an out-patient setting, or the hyperactive or an acting-out child whose emotional problems become converted into destructive or marked antisocial behavior. | Up to \$66.00                      |
| (c) The disturbed adolescent with a serious behavior problem and who is in a specialized foster family home caring for one to four adolescent   | Up to \$33.00                      |

foster children. The foster parents must understand and respect the child's need for less intensive relationships with adults.

[Order 1149, § 388-70-048, filed 8/26/76; Order 1052, § 388-70-048, filed 9/10/75; Order 963, § 388-70-048, filed 8/19/74; Order 913, § 388-70-048, filed 3/1/74.]

**WAC 388-70-049 Payment standards—Foster care in boarding school.** (1) A boarding school within the state of Washington may be used in lieu of foster family care if this type of placement will better meet the needs of the child. Payment for board and room, clothing and personal incidentals for a child in a boarding school shall be made according to the standards in WAC 388-70-042. The cost of tuition is not included in the payment plan; however, a boarding school often has work plans or other resources to defray the cost of the child's tuition.

(2) A child placed in an Indian boarding school outside of the state receives payment for clothing and incidentals according to the standard in WAC 388-70-042(2). [Order 913, § 388-70-049, filed 3/1/74.]

**WAC 388-70-051 Education related foster care.** (1) Licensed foster care will be provided for a handicapped child away from his home when requested by a school district and in concurrence with the wishes of the parents.

(2) Payment will be made by the school district when the only need for foster care arises from the need for an education. The department may pay the cost of foster care if the primary reason for placement in foster care is one cited in WAC 388-70-014. [Order 924, § 388-70-051, filed 4/15/74.]

**WAC 388-70-054 Temporary absence of child from foster care.** (1) When a child is temporarily absent from a foster care facility, the actual days of absence up to (and not more than) fifteen days will be paid by the department, provided the ESSO has been informed by the facility that a bed is being held for the child, and the child will be accepted back at the facility.

(a) Examples of temporary absences are a visit by a child to his own home, hospitalization, camp experiences and runaways.

(i) Payment may be extended beyond 15 days for a child who is hospitalized if the facility continues to hold a place for the child. [Order 1123, § 388-70-054, filed 6/7/76; Order 965, § 388-70-054, filed 8/29/74; Order 913, § 388-70-054, filed 3/1/74.]

**WAC 388-70-056 Transportation and other expenses—Reimbursement.** (1) When prearranged with the department, foster parents shall be allowed transportation for medically related trips involving a foster child in their home. The department, within available funds, will provide reimbursement at the same rate authorized for employees. In addition, actual costs of food and lodging if necessary in securing the medical care will be reimbursed.

(2) Runaway dependents from other states:

(a) Planning and payment for return of a child who is a ward of the court in another state and located in this state is the responsibility of the home state.

(i) If the home state refuses to pay for return transportation, the cost may be paid according to provisions of WAC 388-24-270 if the child meets the criteria in WAC 388-24-255.

(3) When a child who is a ward of the court and in the custody of the department or a private agency (other than a group home or institution) runs away and is subsequently located, responsibility for planning remains with the department or private agency. If there are no financial resources to provide return transportation, the ESSO administrator may approve transportation costs.

(4) Costs for transporting children in foster care from one placement to another within the state may be approved by the ESSO administrator.

(5) Transportation costs for placement of a child to an out-of-state location can be authorized by the ESSO, contingent on the approval of both state offices involved. (See also WAC 388-70-022(3)). If the placement fails and Washington has retained jurisdiction of the child, transportation cost can be authorized by the ESSO contingent on approval of both state offices.

(6) When a Washington resident who is also a dependent minor is held by a juvenile court in another state as a runaway and the court requests transportation expenses from the ESSO and the parents state they cannot pay

(a) An immediate request to the CWS supervisor with jurisdiction in that court area for return of the child under emergency family assistance should be made.

(b) In the event the other state's CWS section refuses to take action, the parent's ability to pay the cost is determined by applying the department's standards in WAC 388-11-190. If parents are unable to pay an exception to policy request may be submitted per chapter 388-20 WAC. [Order 1123, § 388-70-056, filed 6/7/76; Order 965, § 388-70-056, filed 8/29/74; Order 913, § 388-70-056, filed 3/1/74.]

**WAC 388-70-062 Payment for foster care to family receiving public assistance.** When a child is placed in foster care with a family receiving public assistance, the payments to the foster family for the child's board, clothing, and personal incidentals shall not be considered a resource to the family. [Order 913, § 388-70-062, filed 3/1/74.]

**WAC 388-70-064 Payment for foster care to relative.** Foster care funds shall not be expended for a child living with a relative eligible to receive AFDC on behalf of the child. If a child not eligible for AFDC is placed in the home of a relative, his care is paid from state foster care funds. Homes of relatives eligible to receive AFDC need not be licensed, those paid from state foster care funds must be licensed. [Order 913, § 388-70-064, filed 3/1/74.]

**WAC 388-70-066 Foster care out-of-state—Authorization—Payment.** (1) With the consent of the

state office foster parents may be permitted to remove from the state a child who is in a permanent foster home. If the child is a ward of the court, permission from the court must also be obtained. When the foster family moves to another state, arrangements with another social agency for supervision of the foster home placement are required. Such arrangements for supervision are not required when the family leaves the state during a vacation. Payments are continued at the department's current rates.

(2) When a child who is legally a resident of the state of Washington is placed in foster care in another state by the welfare department of that state, foster care payments are made at the rate requested by the state providing it does not exceed the department's current rates if it is the best plan for the child to remain there.

(3) State office approval of out-of-state placement is required before payment is made. [Order 913, § 388-70-066, filed 3/1/74.]

**WAC 388-70-068 Earnings of foster child.** An older child in foster care may be wholly or partially able to meet the cost of his maintenance. The local office must discuss with the child and foster parents the amount of the child's earnings, the purposes for which they are spent, and come to some understanding whereby the child is helped to achieve financial independence in as constructive a way as possible. Any portion of the child's earnings which are saved must be for a specific purpose approved by the agency. Exempt earned income standards which apply to AFDC also apply in foster care. See WAC 388-28-535(3). [Order 913, § 388-70-068, filed 3/1/74.]

**WAC 388-70-069 Resources and unearned income of foster child.** (1) If a child in foster care is entitled to financial benefits (except earnings as specified in WAC 388-70-068), the income received shall be used on behalf of the child to help pay for the cost of the foster care received.

(a) Income includes SSI, RSDI, veteran's benefits, railroad retirement benefits, inheritances, or any other payments for which the child is eligible, unless specifically exempted by the terms and conditions of the receipt of the income.

(b) Receipt of other income as described above shall not relieve the child's responsible parent(s) of the liability for payment of child support in accordance with WAC 388-70-075 through WAC 388-70-084.

(2) Any person, agency, or court which receives any payments on behalf of a child in foster care shall remit such payments to the office of support enforcement, in accordance with WAC 388-70-082.

(3) Resources in the control of a child in foster care shall be treated in accordance with WAC 388-28-400 through 388-28-455, except that resources accumulated from earned income under an approved casework plan as specified in WAC 388-28-535(3)(a)(iv) shall be exempt. [Order 1123, § 388-70-069, filed 6/7/76.]

**WAC 388-70-075 Parents' obligation to support child in foster care.** (1) Parents of children in foster care

paid by the department satisfy their legal obligation to support their children when there is a superior court order for support by paying the amounts specified in the order or in the absence of a superior court order, by paying the amount determined under RCW 74.20A.055 and regulations promulgated in chapter 388-11 WAC.

(2) The provision for a written agreement between the department and the responsible parent(s) for payment of support for a child placed in foster care provided for in RCW 74.20A.030 shall not be utilized. In lieu thereof, in the absence of a superior court order requiring support from a parent of a child receiving foster care, the regulations promulgated in chapter 388-11 WAC shall provide the exclusive constitutional remedies to assert debts claimed under RCW 74.20.292, 74.20A.030 and/or 74.20A.250 and/or 26.16.205.

(3) The office of support enforcement is responsible on behalf of the department of social and health services to take action under the provisions of chapter 74.20A RCW and chapter 388-11 WAC to enforce support obligations as to children in foster care paid for by the department. [Order 1123, § 388-70-075, filed 6/7/76; Order 918, § 388-70-075, filed 3/14/74; Order 623, § 388-70-075, filed 10/27/71.]

**WAC 388-70-078 Standards for parental participation in cost of foster care—Minimum scale recommended to court.** Recommendations to the superior court, specifically including the juvenile court, to establish, raise, lower, release or forgive support payments for a child placed in foster care may be made only by staff of the office of support enforcement and will be made only in accordance with the provisions of WAC 388-11-190. No department or private child care staff other than the staff of the office of support enforcement may make statements to or agreements with parent(s) or their representatives as to support enforcement matters affecting an amount of support debt. [Order 1123, § 388-70-078, filed 6/7/76; Order 918, § 388-70-078, filed 3/14/74.]

**WAC 388-70-080 Referral of child in foster care to department's office of support enforcement.** A referral by the ESSO to the respective district office of support enforcement serving that region is to be made for every foster care placement in which the department participates in payment for care. [Order 1123, § 388-70-080, filed 6/7/76; Order 1048, § 388-70-080, filed 8/29/75; Order 1016, § 388-70-080, filed 4/1/75; Order 918, § 388-70-080, filed 3/14/74.]

**WAC 388-70-082 Parents' foster care payments to be remitted to department.** All payments for the benefit and/or costs of care of children receiving foster care paid for by the department shall be paid to the department's office of support enforcement, unless there is a court order directing payment through a clerk of the court. Payments, pursuant to a court order, paid through a clerk of the court shall be sent to the office of support enforcement pursuant to RCW 74.20.101. [Order 1123, § 388-70-082, filed 6/7/76; Order 918, § 388-70-082, filed 3/14/74.]

**WAC 388-70-084 Assignment of child support judgment and limited power of attorney.** When there is a superior court order providing for payment of support from a parent to the person or agency having custody, the department shall advise the person or agency having custody that such judgment representing support for the child in, or to be placed in, foster care is, by law (RCW 74.20A.030 and 74.20A.250), deemed in favor of the department as long as the child receives assistance. The person or agency having custody shall acknowledge this subrogated right to the department by execution of an assignment of judgment and limited power of attorney, which shall remain in effect as long as such child receives foster care assistance. [Order 1123, § 388-70-084, filed 6/7/76; Order 918, § 388-70-084, filed 3/14/74.]

**WAC 388-70-091 Foster care planning for Indian children—Definitions.** For the purposes of these rules, the term "Indian" includes the following groups:

- (1) An enrolled Indian:
  - (a) Any person who is enrolled or eligible for enrollment in a recognized tribe.
  - (b) Any person determined, or eligible to be found, to be an Indian by the Secretary of the Interior.
  - (c) An Eskimo, Aleut or other Alaskan native.
- (2) A Canadian Indian: Any person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.
- (3) An unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized Indian tribe or urban Indian/Alaskan native community organization. [Order 1167, § 388-70-091, filed 10/27/76.]

**WAC 388-70-092 Foster care for Indian children—Tribal sovereignty.** Neither the licensing of Indian foster homes nor the placement and supervision of Indian children within the exterior boundaries of an Indian reservation, shall in any way abridge the sovereignty of an Indian nation or tribe nor shall compliance with these rules and regulations be deemed a relinquishment of sovereign authority by an Indian nation or tribe or by the State of Washington. [Order 1167, § 388-70-092, filed 10/27/76.]

**WAC 388-70-093 Foster care for Indian children—Services.** Documented efforts shall be made to avoid separating the Indian child from his parents, relatives, tribe or cultural heritage. Consequently:

- (1) In the case of Indian children being placed in foster care by the department or for whom the department has supervisory responsibility, the local Indian child welfare advisory committee, predesignated by a tribal council, or appropriate urban Indian organization shall be contacted. Members of that committee will serve as resource persons for the purposes of cooperative planning and aid in placement.
- (2) The resources of the tribal government, department and the Indian community shall be used to locate

the child's parents and relatives to assist in locating possible placement resources, and to assist in the development of a plan to overcome the problem that brought the child to the attention of the authorities and/or the department.

(3) In planning foster care placements for Indian children, demonstrable consideration shall be given to tribal membership, tribal culture and Indian religions. The case record shall document the reasons and circumstances of casework decisions and consideration in those regards.

(4) The following resources for foster home placement of Indian children will be explored and followed in the following order: relatives' homes, homes of other Indian families of same tribe, other Indian foster parents and non-Indian foster homes specifically recruited and trained in cooperation with the local Indian child welfare advisory committee to meet the special needs of Indian foster children and in the geographic proximity that will insure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.

(5) For each Indian child who will be in care for more than 30 days, including those for whom adoption is planned, the ESSO shall make documented effort to complete two copies of the "family ancestry chart" (except in those cases where parents specifically indicate in writing they do not want the child enrolled). One copy will be retained in the child's file; the other will be forwarded to the bureau of Indian affairs office or the department of Indian affairs agency in Canada serving that child's tribe or band. The BIA of the department of Indian affairs agency will review the chart for possible enrollment eligibility in conjunction with the enrollment committee of the appropriate tribe or urban Indian community.

(6) The ESSO shall develop its social resources and staff training programs designed to meet the special needs of Indian children through coordination with tribal, Indian health service, bureau of Indian affairs social service staff, appropriate urban Indian and Alaskan native consultants, national, state and local Indian welfare organizations and ESSO child welfare advisory committees.

(7) The ESSO shall make diligent and demonstrable efforts to recruit facilities and/or homes particularly capable of meeting the special needs of Indian children with the assistance of the local Indian child welfare advisory committees. [Order 1167, § 388-70-093, filed 10/27/76.]

**WAC 388-70-095 Foster care for Indian children—Serious injury, death, abandonment, child abuse, neglect, incarceration.** When an Indian child in foster care dies, is seriously injured, abandoned or incarcerated, in addition to other appropriate notifications, the department shall promptly advise the ESSO Indian child welfare advisory committee and appropriate tribal council. WAC 388-15-131(4) provides for notification about

child abuse/neglect incidents. [Order 1255, § 388-70-095, filed 12/1/77; Order 1167, § 388-70-095, filed 10/27/76.]

**WAC 388-70-110 Services to unmarried parents.**

(1) The purpose of this program is to offer guidance and serve the needs of unmarried parents through:

(a) Service by the local office directed toward prevention of unplanned pregnancies, strengthening of family life, and/or

(b) Referral to licensed or appropriately approved as certified facilities offering maternity services including foster care, residential care, or day treatment;

(c) Payment for maternity services as provided in WAC 388-70-114;

(d) Medical services according to the rules of the department's medical program.

(2) "Unmarried parents" are defined as parents of a given child who are not married to each other. [Order 1020, § 388-70-110, filed 4/29/75; Order 689, § 388-70-110, filed 6/15/72; Regulation 70.110, filed 3/22/60.]

**WAC 388-70-111 Services to unmarried parents—Duration of service.** (1) Service is provided for prenatal or postnatal care and/or day treatment according to the contract with the agency providing care.

(2) Payment is made to the individual or agency on the basis of the length of stay in the facility. [Order 689, § 388-70-111, filed 6/15/72.]

**WAC 388-70-112 Services to unmarried parents—Persons eligible.** Unmarried parents' services are available to:

(1) Any current, former or potential AFDC recipient who is or has been pregnant by someone other than her legal husband within the last two years,

(2) Any unmarried woman, regardless of age, who is pregnant or has a child(ren) born by someone other than a legal husband, within the last two years,

(3) The natural fathers of the children. [Order 1020, § 388-70-112, filed 4/29/75; Order 689, § 388-70-112, filed 6/15/72.]

**WAC 388-70-114 Services to unmarried parents—Payment.** (1) Payment is made for maternity service when the unmarried parent is in a licensed or appropriately approved as certified facility which provides maternity care and/or services.

(2) Maternity services are paid according to department standards reflected in the contract with the facility providing service determined according to WAC 388-70-230 through 388-70-270. [Order 689, § 388-70-114, filed 6/15/72.]

**WAC 388-70-116 Services to unmarried parents—Parents' responsibility.** (1) Parents of an unmarried mother under 18 years of age are responsible for her support. Determination of the ability to support is made in each case according to the standards of the department. See WAC 388-70-085.



(2) Reports are made to the department's support enforcement and collection section to secure support from an absent parent for a child born out of wedlock.

(3) The parents' inability or unwillingness to contribute to the unmarried mother's support does not affect that unmarried mother's need for and eligibility for maternity services. [Order 689, § 388-70-116, filed 6/15/72.]

**WAC 388-70-118 Services to unmarried parents—Services available.** (1) The department shall utilize the best resources available for the particular girl. This may be direct service by the local office, or referral to a licensed or appropriately approved as certified facility offering maternity services.

(2) Appropriate comprehensive or specialized services, including both residential care and day treatment programs, may be purchased from maternity homes and other voluntary agencies which provide services to unwed parents and their children. [Order 689, 388-70-118, filed 6/15/72.]

**WAC 388-70-160 Guardianship of estate of child.** (1) The department accepts guardianship of the estate of a child when:

(a) The child has been separated from his family and the person who would normally act as his guardian is unable to do so,

(b) The child is a ward of the juvenile court and custody or supervision is placed with the local office,

(c) The estate is insufficient to maintain the child during his minority,

(d) The estate is in the form of cash or negotiable bonds.

(2) The secretary of the department acts as payee of RSI benefits on behalf of the child. When the secretary or his designee signs a certificate of guardianship, the department agrees with the bureau of RSI:

(a) To apply all benefits received for the child to his use and benefit

(b) That the child's insurance benefit will not be claimed:

(i) For any period in which the earnings of the child or individual, upon whose earnings the child's benefit is based, are in excess of the legal limitations established by the social security act, or

(ii) If the child dies, or

(iii) If the child is adopted by a person other than the child's stepparent, grandparent, uncle, or aunt, or

(iv) If the child marries, or

(v) After the child attains age 18.

(c) To notify the Bureau of RSI promptly when any of the above events occur.

(3) The local office acting as agent of the secretary shall give the same supervision and services as those available to other children under its care. [Order 965, § 388-70-160, filed 8/29/74; Order 913, § 388-70-160, filed 3/1/74; Regulation 70.160, filed 3/22/60.]

**WAC 388-70-170 Veterans' benefits.** By agreement with the regional office of the veterans' administration, the secretary of the department may receive benefits on

behalf of children who have been placed by court order under the supervision or custody of the local office. [Order 913, § 388-70-170, filed 3/1/74; Regulation 70.170, filed 3/22/60.]

**WAC 388-70-201 DSHS—Private child caring agency relationships—Legal basis.** (1) The legal basis for the department's relationships with private child caring agencies is found in chapter 74.13 RCW.

(2) RCW 74.13.031(5) gives the department the "authority to purchase care for children and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department". [Order 1123, § 388-70-201, filed 6/7/76.]

**WAC 388-70-211 DSHS—Private child caring agency relationships—General terms.** The department's relationships with the private child caring agencies include the following major areas:

(1) Assessment of the needs of children and work with public and private child caring agencies toward the development of programs and resources to best meet those needs.

(2) Development and enforcement of minimum licensing requirements governing the standards of care to be maintained by licensed child care agencies.

(3) Licensing of certain categories of child caring agencies and foster family homes by such agencies.

(4) Development in consultation with private child care agencies of payment agreements and rates of payment with private child caring agencies.

(5) Development through consultation and cooperation with private child care agencies of agreements and procedures between such agencies and the department relating to the care of individual children, including the establishment of eligibility for payment for those children and joint planning for their care.

(6) Consultation and assistance to persons and agencies operating or contemplating operation of child care facilities in the state.

(7) Planning in consultation with private child care agencies for the development of state-wide budgeting and legislative goals, programs and activities on behalf of children. [Order 1123, § 388-70-211, filed 6/7/76.]

**WAC 388-70-221 Responsibilities of private child caring agencies and DSHS for placement and care.** (1) The policies outlined in this chapter apply equally to private child caring agencies and DSHS.

(2) Referrals for the care of children or unmarried mothers may be made by private child caring agencies to the ESSO, by the ESSO to private child caring agencies or between private agencies.

(a) Each referral shall be in writing and shall contain a summary of the needs of the child, as well as a plan to meet the child's needs.

(b) If the child is a ward of the court, immediate steps shall be taken to change custody to the agency which accepts the child, except when placed in accordance with WAC 388-70-013(2)(c).

(c) If the placement is voluntary, a new written consent must be obtained from the parent(s) granting consent to place to the agency which accepts the child, in accordance with WAC 388-70-013(2)(c).

(d) The transfer of a child from one agency to another agency is considered a termination; the agency to which the child is transferred shall submit a new request consistent with WAC 388-70-022 to the ESSO, if payment is desired. [Order 1123, § 388-70-221, filed 6/7/76.]

**WAC 388-70-230 Child care agency, institution, or maternity home—Setting rates of payment.** (1) The department's rates of payment for foster care provided by an approved child placing agency or institution for a dependent child, or by a maternity service for an unwed mother shall be established according to WAC 388-70-230 through 388-70-280. The rate of payment for maternity home care for a recipient of AFDC shall be as specified in WAC 388-28-138.

(2) Each agency approved for payment shall sign an agreement for payment to voluntary child care agency. Rates of payment shall be established annually according to WAC 388-70-240 through 388-70-270 and new agreements shall be signed effective July 1 of each year except as provided in WAC 388-70-275.

(3) The rate of payment to an approved agency providing foster family care is established according to WAC 388-70-255.

(4) The standards in WAC 388-86-105 shall be the rate of payment to an approved agency for medical care provided to a dependent child or unwed mother.

(5) The rates established under this section shall constitute the full charge for foster care and services. No additional charges, fees, assessment or deposits, refundable or nonrefundable, may be required of parents and any payments by parents for foster care and services must be treated as required by WAC 388-70-082. [Order 1186, § 388-70-230, filed 2/3/77; Order 1116, § 388-70-230, filed 4/28/76; Order 965, § 388-70-230, filed 8/29/74; Regulation 70.230, filed 12/21/64, effective 2/1/65; Regulation 70.230, filed 6/24/64, 9/26/63, 8/28/62, 6/30/60, 3/22/60.]

**WAC 388-70-235 Required reports—Content—Penalty for late reporting.** [(1)] Each approved agency shall submit a report regarding the number of days care given to children and unmarried mothers. These reports shall be submitted in January and July and shall include information for each of the preceding six months.

(2) The first part of each year each agency shall submit a per capita expenditure report showing the agency's cash expenditures for various itemized purposes during the preceding calendar year. Upon agreement with the department, an agency may report expenditures according to its fiscal year, if other than the calendar year.

(3) Payment for foster care to a child placing agency or institution is dependent on the receipt of an initial referral summary and subsequent quarterly reports. For voluntary placement the initial summary must accompany the application for foster care. For court ordered placement the initial summary must be received within 30 days after placement. The quarterly report must be received no later than the month following each subsequent three month period.

(4) Each quarterly report must contain a justification of the need for the child to be out of his own home and specify a time-limited plan for the services to be provided to the child while in foster care.

(5) If reports are not timely, payment will be withheld until they are received. [Order 1186, § 388-70-235, filed 2/3/77; Order 965, § 388-70-235, filed 8/29/74; Regulation 70.231, filed 12/24/64, effective 2/1/65.]

**WAC 388-70-240 Computation of per capita expenditures.** Rates of payment are based on the per capita cash expenditures of the agency as computed by the department from information submitted by the agency. An agency's per capita expenditures, from which rates are derived, are computed by dividing the agency's disbursements for allowable items by the number of days' care. As used herein, the term "expenditures" means disbursements. Per capita expenditure information is published by the department and distributed to the agencies and other interested persons in a "Services and Expenditure Report". [Regulation 70.232, filed 12/24/64, effective 2/1/65.]

**WAC 388-70-245 Nonprofit institution and maternity home—Rate setting—Exclusions.** The department's rate of payment to a nonprofit institution and/or maternity home is based on the monthly per capita expenditure for maintenance items as standardized and adjusted plus an allowance for services and operations. The rate of payment to each institution or maternity home differs since the rate is affected by the following factors:

(1) Maintenance expenditures include the cost of food, clothing and personal incidentals for children, laundry and household supplies, utilities, repair of buildings (three year average), salaries, and food for house-parents and maintenance staff as reported by the agency.

(2) Standardization.

(a) In determining the department's rates for nonprofit institutions and maternity homes, per capita expenditures for food, clothing and personal incidentals are subject to standardization. Standardization means that when an agency's per capita expenditure for food, clothing and necessary incidentals exceeds the department's standard for a needy child, the department's standard for these items is substituted for the agency's actual expenditure.

(b) Standards of assistance for needy children are revised periodically in accordance with state-wide pricing studies conducted by the department to determine the cost of a quantity and quality of food, clothing and personal incidentals sufficient to provide a minimum but

adequate standard of living to a child of a given age and sex. The department relies upon recognized authorities in the determination of these standards, including the Bureau of Human Nutrition and Home Economics of the U.S. Department of Agriculture, and the Heller Committee.

(3) Adjustment. For the purpose of establishing the rate of payment, the agency's per capita expenditures for selected maintenance items are adjusted (reduced) if the average number of children or unmarried mothers under care is below seventy percent of an institution's approved capacity. Only fixed maintenance items, that is, all maintenance items other than food, clothing and personal incidentals are subject to adjustment. The adjusted expenditure is substituted for the actual expenditure and represents the probable per capita expenditures for fixed maintenance items had the institution operated at seventy percent of capacity. An institution's capacity and the age and sex of children served are based on the agency's annual agreement with the department at the time of approval for payment and in accordance with the agency's description as published in the department's directory of voluntary child caring institutions, agencies and public children's institutions.

(4) Excessive or unusual expenditures for maintenance items are subject to negotiation with the agency.

(5) In addition to the rate for maintenance, an allowance is made for the cost of services and operations. The allowance for services and operations is set by the department.

(6) Excluded expenditures. Certain expenditures shall be excluded in determining the rate of payment, including:

(a) Capital expenditures - outlays representing an investment in physical facilities and additions or improvements thereto

(b) Fund-raising activities

(c) Commercial operations (as described in WAC 388-70-250)

(d) Non-cash resources - Resources such as professional services donated by doctors and dentists, and donated food and clothing, are not reflected in the department's rates and a monetary value is not assigned to such goods and services in the annual expenditure report. [Order 855, § 388-70-245, filed 9/13/73; Regulation 70.233, filed 12/21/64, effective 2/1/65.]

**WAC 388-70-250 Nonprofit agency—Commercial operations.** (1) An agency conducting commercial operations as a means of financial support for its program shall submit an appended report (SF 6459-B) to SF 6459-A. Such a report is required when (a) property or equipment is used jointly by the commercial operation and the institution in its regular program, (b) these services or goods are also furnished the institution, and (c) the cost is included in any item in the per capita report.

(2) The appended report to SF 6459 shall include a statement of income and expense of the commercial operation with an explanation of the method of allocating expenditures. Information is required regarding (a) method of allocating the expenditures relative to jointly used facilities such as utilities and repair to buildings

used in common, and (b) the basis upon which some part of the expenditures of the commercial operations have been included in the per capita expenditure report. Following the department's evaluation of the report, an agreement is reached with the agency regarding the items of agency expenditure to be included in setting the rate of payment. [Regulation 70.234, filed 12/21/64, effective 2/1/65.]

**WAC 388-70-255 Voluntary agency licensed foster family care—Rate setting.** (1) The department pays a uniform rate to voluntary agencies for dependent children in foster family care. This rate is determined on consultation with the agencies and in consideration of

(a) the desirability for a similar rate for all child placing agencies seeking homes,

(b) the agencies' per capita expenditures for maintenance items, and

(c) the cost of living index.

(2) Maintenance expenditures for foster family care are defined as boarding home payment, clothing, laundry and personal incidentals for children. See WAC 388-70-245(6) for expenditures which are excluded in the determination of the department's rate of payment to a nonprofit child care agency.

(3) The amount paid for maintenance shall be passed along to the foster home parents and no portion thereof is retained by the child placing agency.

(4) An allowance for the costs of services and operations of the child placing agency is provided in addition to the maintenance rate for foster family care. This allowance is set by the department and retained by the child placing agency.

(5) The rates established under this section shall constitute the full charge for foster care and services. No additional charges, fees, assessment or deposits, refundable or nonrefundable, may be required of parents and any payments by parents for foster care and services must be treated as required by WAC 388-70-082. [Order 1186, § 388-70-255, filed 2/3/77; Order 1123, § 388-70-255, filed 6/7/76; Order 855, § 388-70-255, filed 9/13/73; Regulation 70.235, filed 12/21/64, effective 2/1/65.]

**WAC 388-70-260 New agency—Rate negotiated.** For a newly approved agency which has operated less than a year, the department negotiates the rate of payment taking the following factors into consideration:

(1) Agency's proposed budget

(2) The average expenditures of similar agencies in the state for items usually included in payment agreements with voluntary child care agencies. The state average for repairs and replacements is utilized until the agency has accumulated three years' expenditure information for these items.

(3) Salaries paid in public and voluntary child care agencies for comparable staff positions.

(4) The department's standards for food, clothing and personal incidentals, the actual costs of items which can be accurately determined as related to the agency's particular circumstances, the licensing and approval requirements of the department, and the department's

appropriation. [Regulation 70.236, filed 12/21/64, effective 2/1/65.]

**WAC 388-70-270 Proprietary agency—Rate setting.** The rate of payment to a proprietary or commercial child care institution approved for payment by the department is negotiated by the department and the agency, taking into consideration: (1) the agency's budget and per capita cost, (2) the department's standards for food, clothing, and personal incidentals, (3) the agency's charge for private placements, (4) the department's evaluation of the quality of the agency's service, and (5) the need of such service for dependent children. [Regulation 70.237, filed 12/21/64, effective 2/1/65.]

**WAC 388-70-275 Nonsubmission of reports—Late reporting—Penalties.** (1) The department makes no payment to an agency which does not submit required reports and agreements.

(2) When a currently approved agency fails to submit its per capita expenditure report by the due date, the department may at its discretion continue the current rate of payment in effect until the report is submitted and the department has sufficient time to establish a new rate and effective date.

(3) If the new rate is less than the current rate, the difference between the two rates constitutes an overpayment from July 1 to the effective date of the new rate and agreement. The voluntary agency shall reimburse the department the amount of such overpayment. If the new rate is greater than the former rate, the department does not pay the voluntary agency the difference between the two rates during the interim period. [Regulation 70.238, filed 12/21/64, effective 2/1/65.]

**WAC 388-70-280 Vouchering payment.** (1) The first of each month the state office of DSHS will print foster care invoices in triplicate with the vendor name and address, the local ESSO number, the child's name and case number, and the projected billing for the month, based on each child's situation as reported for the previous month. Invoices will not be printed for receiving homes.

(2) The computer printed foster care invoice voucher will be mailed directly to each private child care agency, institution or maternity home.

(3) The private agency, institution, or maternity home will hold the invoice voucher until the end of the monthly period of care. Any additions, deletions or changes in a child's situation shall be recorded on the invoice voucher.

(4) After the end of each month the private agency, institution or maternity home shall:

(a) Check to see that the information on the invoice voucher is correct,

(b) Sign the certification, and

(c) Mail the foster care invoice voucher in triplicate to the local ESSO. [Order 1132, § 388-70-280, filed 7/8/76; Regulation 70.239, filed 12/21/64, effective 2/1/65.]

**WAC 388-70-320 Use of resources other than state department of public assistance medical program.** (1) Medical resources such as free child-care clinics when available shall be used to the extent they can meet the needs for either initial or follow-up examinations.

(2) If the CO is uncertain as to the adequacy of this service, it may be advisable to get an evaluation of the service by medical authorities so the CO may be sure it is discharging its responsibility for health service to the child. [Regulation 70.240, filed 9/26/63.]

**WAC 388-70-410 Adoption services for children—Legal basis—Purpose.** (1) RCW 74.13.020 defines "child welfare services" as "public social services including adoption services which strengthen, supplement or substitute for parental care and supervision."

(2) The purpose of the department's adoption program is to meet the needs of children who are in the department's care and custody. [Order 1167, § 388-70-410, filed 10/27/76.]

**WAC 388-70-420 Definitions.** (1) Adoption: Adoption is a legal and social process provided for by law to establish the legal relationship of child and parent when they were not so related by birth.

(2) Department placements: families applying for placements through the adoption exchanges in which the Department participates.

(3) Independent placements: families anticipating placement by a doctor or attorney and applying for pre-placement or next friend reports.

(4) Inter-country placements: the child for adoptive placement is not a resident and/or citizen of the United States.

(5) Department: means the Department of Social and Health Services including any division, office or unit thereof. [Order 1167, § 388-70-420, filed 10/27/76.]

**WAC 388-70-430 Eligibility for adoption service.** (1) Children: adoption services may be provided any child supervised by the department in foster care or at the request of their parents prior to foster care placement.

(2) Families: families applying for the adoption services provided by the department are resources for children and not subject to service eligibility requirements. [Order 1167, § 388-70-430, filed 10/27/76.]

**WAC 388-70-440 Adoption services for children.** (1) Adoption services for children include:

(a) Casework with parents focused on a permanent home for their child/ren;

(b) Casework with children;

(c) Petitioning the court for termination of parental rights;

(d) Determination of children's medical and social needs;

(e) Psychiatric and psychological evaluations as well as any needed medical evaluations are provided;

(e) Adoptive family home studies (preplacement reports);

(f) Evaluation of adoption resources;

(g) Adoption placements which best meet the child/ren's needs;

(h) Counseling and/or referral of families and children after placement;

(i) Next friend reports for the court.

(2) The social planning for a child in the department's permanent custody shall be continuously reviewed by its economic and social service, regional and state offices to assure that the child is moved as rapidly as possible into adoptive status.

(3) The planning for children continuing in foster care under the department's supervision shall be reviewed every six months to determine their need for adoption services.

(4) Exploration of adoptive resources for a child will be relatives, current foster parents, and registered approved families. [Order 1167, § 388-70-440, filed 10/27/76.]

**WAC 388-70-450 Adoptive planning for Indian children by department staff.** (1) Definitions: For the purposes of these rules the term "Indian" includes the following groups:

(a) Enrolled Indian

(i) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(ii) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(iii) An Eskimo, Aleut or other Alaskan native.

(b) Canadian Indian: a person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.

(c) Unenrolled Indian: a person considered to be an Indian by a federally or nonfederally recognized tribe or urban Indian/Alaskan Native community organization.

(2) An adoptive family shall be considered Indian if one or both parents are Indian by the above definitions.

(3) In adoptive planning for Indian children, the unique tribal, cultural and religious sovereignty of Indian nations, tribes and communities shall be recognized. When consistent with the wishes of the biological parents and/or the child, the adoption of Indian children by Indian families is the primary goal.

(4) Standards implementing the policy are:

(a) Adoption exchange. In the referrals for an Indian child, adoptive homes having the following characteristics shall be given preference in the following order, each category being allowed 30 days before proceeding to the next.

(i) An Indian family of the same tribe as the child.

(ii) A Washington Indian family considering tribal cultural differences.

(iii) An Indian family from elsewhere in the United States or Canada through the adoption resource exchange of North America. Attention shall be given to matching the child's tribal culture to that of the adoptive family.

(iv) Any other family which can provide a suitable home to an Indian child, as well as instill pride and understanding in the child's tribal and cultural heritage.

(b) Foster parent adoptions: as a part of the total evaluation for approving a foster parent adoption of an

Indian child, ESSO service staff shall document the foster family's past performance and future commitment in exposing the child to its Indian tribal and cultural heritage. The child's wish to be involved in his Indian culture shall be considered.

(c) When an Indian child, in the custody of an out of state agency, is referred for potential adoptive parents residing in Washington, documentation shall be obtained that assures the department's standards for planning for Indian children have been complied with.

(5) Local staff shall consult with an Indian child welfare committee in planning for placement of Indian children. [Order 1167, § 388-70-450, filed 10/27/76.]

**WAC 388-70-460 Adoption services for families.**

(1) Department placements:

(a) Applications are accepted from families residing in the state of Washington based upon the anticipated children needing placement;

(b) Upon acceptance of an application, a home study shall be initiated by the ESSO staff and one of the following decisions reached;

(i) Application to adopt is withdrawn by family;

(ii) Application to adopt is denied;

(iii) Family is approved for adoptive placement and registered at the central office exchange.

(c) A family shall be removed from the central office exchange registry for any of the following reasons:

(i) A child has been placed with the family;

(ii) The family decides to receive adoption services from any other agency or through an independent placement;

(iii) The wife is pregnant;

(iv) The family and/or caseworker decide that adoption is no longer an appropriate plan;

(v) The family physically leaves the state.

(d) A family removed from the central office exchange registry may reapply for adoption services; their situation at the time of reapplication shall be evaluated;

(e) Families will be informed in writing of action taken according to the rules of this section and of their right to have a fair hearing only on action taken on their application for services or removal from the central registry.

(2) Independent placements

(a) ESSO staff may respond to Washington families' requests for preplacement studies and next friend reports depending on staff time and other community resources available.

(b) An office not providing service on independent placements shall inform the Superior Court in its area of the available community resource that is available for preplacement and next friend reports.

(c) When an ESSO employee is appointed next friend and the required preplacement report has not been filed in accordance with RCW 26.32.200 through 26.32.270, the situation shall be brought to the attention of the attorney general.

(3) Inter-country placements:

(a) Families will apply to the international child placing agency of their choice.

(b) Upon the written request to the central office by the family's chosen agency, the department may provide the cooperative services. The child's agency must agree to continue its financial and social responsibility for the anticipated child until the decree of adoption is final.

(c) A request for preplacement study for an independent inter-country adoptive placement shall be denied. [Order 1167, § 388-70-460, filed 10/27/76.]

**WAC 388-70-470 Interstate procedures.** (1) The State of Washington is a member of the Interstate Compact on the Placement of Children (chapter 26.34 RCW).

(2) No child for whom the department has responsibility for adoptive planning shall be sent from the state without prior approval of the compact administrators of the state of Washington and the receiving state.

(3) ESSO staff shall not provide supervisory services on an interstate adoptive placement unless the interstate compact forms or their equivalent have been signed by the compact administrators of the two states. [Order 1167, § 388-70-470, filed 10/27/76.]

**WAC 388-70-480 Record confidentiality.** (1) All records and information obtained by the department in providing adoption services are confidential as specified in RCW 26.36.010; 26.36.020; 26.36.030; and 26.36.050.

(2) Upon the issuance of the decree of adoption, a child's record is sent to the central office for archiving.

(3) Information from an archived record required for the medical and/or emotional treatment of an adopted child may be obtained from the central office adoption specialist, under the authority of RCW 26.36.050. The request for information will be made by the professional treating the child and include the adoptive parents' written authorization to release the information. [Order 1167, § 388-70-480, filed 10/27/76.]

**WAC 388-70-510 Adoption support for children—Legal basis—Purpose.** (1) The legal basis for the Adoption Support Program is RCW 74.13.100 through 74.13.145.

(2) The purpose of the program is to encourage the adoption of hard-to-place children, that is, the child who would have to live out his childhood without the security and stability of a permanent adoptive home if support payments were not made. The program includes children cared for by both public and voluntary child care agencies. Interpretation of the statute and the philosophy of the adoption support program shall emphasize a flexible approach to subsidized adoption, focusing on the welfare of the child; rules shall not be adversely applied to the child's welfare. [Order 1037, § 388-70-510, filed 7/29/75.]

**WAC 388-70-520 Adoption support for children—Definitions.** As used in these rules

(1) "Adoption" shall mean the granting of the adoption decree consistent with the provisions of chapter 26.32 RCW.

(2) "Adoption support payment" shall mean the financial remuneration resulting from an agreement whereby the department continues some financial responsibility beyond the legal consummation of the adoption.

(3) "Agreement" shall mean a contract between the prospective adoptive parent(s) and the department to provide adoption support payments following the granting of a decree of adoption.

(4) "Corrective-rehabilitative services" shall include but not be limited to: medical care, psychological services, physical therapy, prosthesis, speech and hearing therapy, cosmetic surgery or orthodontia.

(5) "Department" shall mean the department of social and health services.

(6) "Family" shall mean any prospective parent(s) having the character, judgment, sense of responsibility and disposition which makes him or her suitable as an adoptive parent of such child, and lacks the financial means fully to care for such hard-to-place child.

(7) "Secretary" shall mean the secretary of department or his designee.

(8) "The act" means the statutes authorizing adoption support codified as RCW 74.13.100 through 74.13.145. [Order 1037, § 388-70-520, filed 7/29/75.]

**WAC 388-70-530 Adoption support for children—Eligible child.** (1) A child to be considered for adoption support must be registered with the office given administrative authority for the program:

(2) A child meeting the eligibility criteria for registration is one who

(a) was or is residing in a foster home or a child caring institution or a child who in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child caring institution.

(b) is legally free for adoption, and

(c) is under 18 years of age at the time the contract is signed, and

(d) adoption is the most appropriate plan, and

(e) is hard-to-place for adoption.

(3) The child must have been registered for three months with the Washington adoption resource exchange (WARE) and the adoption resource exchange of North America (ARENA) to demonstrate that a non-subsidized resource is not available if the plan is regular agency adoption.

(4) Registration with the exchanges shall not be necessary when foster parents desire to adopt a child who has been in their foster home for at least six months prior to application to the department.

(5) The child must be found to be difficult to place in adoption because of but not limited to one or more of the following:

(a) Physical or mental handicap,

(b) Emotional disturbance,

(c) Ethnic background, including race, color or language,

(d) Age,

(e) Sibling grouping,

(f) Close ties to the current foster family which if severed could cause emotional damage to the child. [Order 1037, § 388-70-530, filed 7/29/75.]

**WAC 388-70-540 Adoption support for children—Application.** (1) The prospective adoptive family shall apply to the department for adoption support for the child.

(2) The application will be jointly completed by the prospective adoptive parents and their referring agency or the department's local office. The type and amount of support payment requested shall be mutually determined by the family and the caseworker according to the criteria in WAC 388-70-560. A copy of the family's most recent federal income tax return, internal revenue service form 1040, must accompany the application for adoption support. If the family is not required to file a federal income tax return, they must submit such financial statement as is required by the department. [Order 1037, § 388-70-540, filed 7/29/75.]

**WAC 388-70-550 Adoption support for children—Types and amounts of payments.** (1) The three types of support payments are monthly maintenance, attorney fees and/or court costs, medical (corrective-rehabilitative) service, or any combination of these. Support payments may continue until a child is 21 years of age. The secretary may approve and continue payment, if warranted, after a child is 21 years of age.

(2) The payment for monthly maintenance shall not exceed the monthly cost standards for foster care established by the department for its foster homes. This payment includes regular foster care or specialized foster care, where indicated, and clothing and personal incidentals. (See WAC 388-70-042 and WAC 388-70-048.)

(3) If the department determines that the prospective adoptive parent(s) cannot, because of limited financial means, pay the cost or the full cost of legal proceedings for the adoption of a hard-to-place child eligible for support under the act and these regulations, the secretary may authorize the payment of all or part of a reasonable attorney's fee as determined by the superior court hearing the adoption and the court costs and other reasonable expenses attendant to the adoption proceedings. In such instance the attorney for the adoptive parent(s) shall furnish the department with a certified copy of the decree of adoption containing the finding as to his fee and an itemized statement of all other costs of the adoption proceedings.

(4) The medical needs of a child in the adoption support program shall be met from the department's medical services program.

(a) Payment of the costs of medical services shall be made directly to the physician or provider of the services according to the department's established procedures.

(b) Prior to entering an agreement for medical services, the medical needs of a particular child must be reviewed and approved by the department's office of personal health services. Following review and approval, all medical services requested by the adopting parents

shall be coordinated through the adoption support program and furnished according to the department's medical programs when there is no other resource available during the effective period of the family's agreement with the department.

(c) Requests for orthodontics, psychiatric care, physical therapy and appliances require special procedures; these requests shall be submitted to the department and its approval obtained before the service is rendered. [Order 1037, § 388-70-550, filed 7/29/75.]

**WAC 388-70-560 Adoption support for children—Criteria governing amount of payment.** (1) The factors considered by the department in setting the amount of any payment(s) shall include the size of the family including the adoptive child, the usual living expenses of the family, the special needs of any family member including his educational needs, the family income, the family resources and plan for savings, the medical care and hospitalization needed by the family and the family's means of purchasing or otherwise obtaining the care, and any other expense likely to be needed by the child to be adopted.

(2) The specific amount of support to be requested in the application shall be based on an individual social determination arrived at between the family and their caseworker. The decision as to the amount of a monthly support payment shall be based on a realistic evaluation of the child's need to live in the particular family and the cost of the living expenses of the individual family. Due to changes in the family's economic circumstances or the needs of the child, support payments may be modified or discontinued and later resumed. The monthly maintenance may increase as a child reaches different foster care age payment categories, but this must be requested by the adoptive family. [Order 1037, § 388-70-560, filed 7/29/75.]

**WAC 388-70-570 Adoption support for children—Agreement for adoption support.** An agreement shall constitute a binding contract between the department and the prospective adoptive family to provide adoption support for a child after adoption. This agreement shall be completed in accordance with RCW 74.13.124. [Order 1037, § 388-70-570, filed 7/29/75.]

**WAC 388-70-580 Adoption support for children—Review of support payment.** (1) Each agreement under the act and these regulations shall be reviewed annually when any parent(s) receives more than one lump sum payment. At the time of such annual review and at other times during the year when changed conditions (including variations in medical opinions, prognosis and costs) are deemed by the secretary to warrant such action, appropriate adjustments in the payments shall be made based upon changes in the needs of the child or in the adoptive parent's income, resources or expenses. Any modification in the support payment shall result in a new agreement signed by the parents, the program coordinator and secretary of the department.

(2) Any parent who is a party to an agreement may request in writing at any time, a review of the amount of any payment or level of continuing payments as provided in RCW 74.13.118. The review shall be initiated not later than thirty days from the receipt of the request.

(3) Any adjustment in payment may be retroactive to the date the request was received by the secretary. If the request is not acted on within thirty days after receipt by the secretary, the parent may invoke the right to a fair hearing.

(4) The annual review shall be conducted according to RCW 74.13.118 and 74.13.121. [Order 1037, § 388-70-580, filed 7/29/75.]

**WAC 388-70-590 Adoption support for children—Appeal from secretary's decision—Hearing.**

(1) Adoptive parents may request a hearing to review

(a) A decision by the secretary to increase or decrease the level of payment or payments for the support of an adoptive child without the mutual acceptance of the adoptive parents. Notification of proposed changes in the level of a payment or payments for the support of an adoptive child shall be made to the adoptive parents in writing by certified mail or personal service and shall state the grounds upon which the secretary proposes such action;

(b) The decision of the secretary made pursuant to a written request by the adoptive parent or parents to adjust the amount of any payment or the level of continuing payments; such hearing may be requested thirty days following the date of receipt of the request by the secretary if the secretary has failed to take action upon such request;

(c) The decision of the secretary as to whether any standard or part of a standard adopted by the secretary after the date of an initial agreement, which standard or part is used by the secretary making any review and adjustment, is more generous than the standard in effect as of the date of the initial determination with respect to such agreement.

(2) A hearing must be requested within thirty days of the receipt of written notice by the adoptive parents of the decision of the secretary sought to be reviewed. A request for a hearing shall be made by certified mail.

(3) All hearings held pursuant to this section shall be conducted in accordance with chapter 388-08 WAC and RCW 74.08.070 except as specifically provided in the act and these regulations. Such hearings and the results thereof shall be confidential and shall not be revealed to any other person, institution or agency, public or private.

(4) Denial of an initial request for support payments and social decisions based on the appropriateness of the individual(s) to adopt a child shall not be subject to any review or hearing. [Order 1037, § 388-70-590, filed 7/29/75.]

**WAC 388-70-600 Local Indian child welfare advisory committee—Purpose.** The intent of WAC 388-70-096, 388-70-450, and WAC 388-70-600 through WAC 388-70-640 is to ensure protection of the Indian identity of Indian children, their rights as Indian children, and the maximum utilization of available Indian

resources for Indian children. To ensure the realization of this intent, information about each current and future case involving Indian children for whom the Department of Social and Health Services has a responsibility shall be referred to a local Indian child welfare advisory committee on an ongoing basis according to procedures which recognize the privacy rights of the families.

The purposes of local Indian child welfare advisory committees are:

(1) To promote relevant social service planning for Indian children[.]

(2) To encourage the preservation of the Indian family, tribe, heritage, and identity of each Indian child served by the Department of social and health services.

(3) To assist in obtaining participation by representatives of tribal governments and Indian organizations in departmental planning for Indian children for whom the department has a responsibility. [Order 1167, § 388-70-600, filed 10/27/76.]

**WAC 388-70-610 Local Indian child welfare advisory committee—Membership.**

Local Indian child welfare committees shall be established within each region. The number and locations of the local committees shall be mutually determined by the Indian tribal governments and urban Indian organizations served by that region and the DSHS regional administrator.

(1) The committee shall consist of representatives designated by tribal government and urban Indian organizations. The regional administrator shall appoint committee members from among those individuals designated by Indian authorities. These members should be familiar with and knowledgeable about the needs of children in general as well as the particular needs of Indian children residing in the service area.

(2) The Committee may also include bureau of Indian affairs and/or Indian health service staff if approved by participating tribal councils and urban Indian organizations.

(3) The DSHS regional administrator and/or the ESSO administrator shall appoint a member of his child welfare supervisory staff as a liaison member of the committee.

(4) The local Indian child welfare advisory committee is an ad hoc advisory committee not specifically authorized by statute. As such its members are not entitled to per diem and travel expenses for the performance of advisory committee functions. This rule shall not be construed, however, to prohibit expense payments to members who are otherwise qualified for and perform services compensable under other programs such as the volunteer programs. [Order 1167, § 388-70-610, filed 10/27/76.]

**WAC 388-70-615 Local Indian child welfare advisory committee—Subcommittees.**

Each committee may appoint a subcommittee of permanent members to participate in reviewing the situation of an individual child or children for the purpose of recommending future planning actions. [Order 1167, § 388-70-615, filed 10/27/76.]



**WAC 388-70-620 Local Indian child welfare advisory committee—Functions.** (1) The functions of the local Indian child welfare advisory committee are:

(a) Assistance to DSHS staff in cooperative planning for Indian children.

(b) Consultation to DSHS staff regarding the provision of adoption, foster care and child protective services on behalf of Indian children.

(c) Reviewing the situations of Indian children.

(d) Assisting in the implementation of recommended plans.

(e) Assisting in the recruitment of and making recommendations regarding the licensing of foster and adoptive homes for Indian children and providing culturally relevant services to Indian children.

(f) Requests the ESSO Administrator to initiate reviews of casework decisions that the committee believes to be detrimental to the best interests of Indian children.

(g) Acts in an advisory capacity to the Regional Administrator and ESSO Administrator regarding the department's implementation and monitoring of the rules related to foster care, child protection, and adoption services to Indian children and their families. [Order 1167, § 388-70-620, filed 10/27/76.]

**WAC 388-70-630 Local Indian child welfare advisory committee—Meetings.** Each committee and the regional administrator and/or ESSO administrator will mutually agree as to time, place and frequency and conduct of official committee meetings. [Order 1167, § 388-70-630, filed 10/27/76.]

**WAC 388-70-640 Local Indian child welfare advisory committee—Confidentiality.** (1) Prior to review or participation in any specific case which will involve access to records protected by confidentiality statutes or rules, the necessary and appropriate consents shall be obtained. Each regional administrator and local Indian child welfare committee shall develop mutually agreeable procedures for describing to the Indian child, parent, guardian or court of jurisdiction the role of the Indian advisory committee in review of their individual situations and for receiving their approval of such review. The emphasis shall be on the development of communications procedures which are positive and relevant to the Indian people.

(2) The members of the local child welfare advisory committee shall agree to abide by RCW 74.04.060 and the rules of confidentiality binding the DSHS staff. [Order 1167, § 388-70-640, filed 10/27/76.]

### Chapter 388-71 WAC

#### INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

##### WAC

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388-71-040	Procedures for change in placement status.
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388-71-055	Penalty for illegal placement.

**WAC 388-71-005 Duty to provide.** Under chapter 26.34 RCW it is the responsibility of the state of Washington to cooperate with the other states party to the Interstate Compact on the Placement of Children to the end that:

(1) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(2) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(3) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(4) Appropriate jurisdictional arrangements for the care of children will be promoted. [Order 1081, § 388-71-005, filed 12/24/75.]

**WAC 388-71-010 Definitions.** As used in this compact: (1) "Child means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(2) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings or causes to be sent or brought any child to another party state.

(3) "Receiving state" means the state to which a child is sent, brought or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(4) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility. [Order 1081, § 388-71-010, filed 12/24/75.]

**WAC 388-71-015 Conditions for placement.** (1) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein. All state laws, rules and regulations regarding placement of American Indian Children shall be complied with by the sending agency and receiving state.

(2) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(a) the name, date and place of birth of the child;

(b) the identity and address or addresses of the parents or legal guardian;

(c) the name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child;

(d) a full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(3) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to subsection (2) may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(4) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child. [Order 1081, § 388-71-015, filed 12/24/75.]

**WAC 388-71-020 Condition under which compact applies.** The compact is applied under the following conditions:

(1) When a sending agency in a member state wishes to place a specific child for whom it holds legal custody or placement responsibility in: a specific boarding or foster family home in another compact state; a specific relative home in another compact state; a specific child-caring institution in another compact state; or equivalent facilities for the child are not available in the sending agency's jurisdiction, and institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

(2) When a sending agency in a member state has placed a child for adoption or foster care in a home within the state and intends to continue the placement if the family plans to move to another compact state prior to the consummation of the adoption or during the continuance of the foster care status.

(3) When a "person" in a compact state (included in the legal definition of "sending agency"[]) wishes to place a child who is in his or her custody in: A specific boarding or foster family home in another compact state; or a specific preadoptive family home (independent adoption) in another compact state; or a specific relative home in another compact state except as excluded under WAC 388-71-025; or a specific child-caring institution in another compact state. [Order 1081, § 388-71-020, filed 12/24/75.]

**WAC 388-71-025 Exemptions.** The Interstate Compact legislation does not apply in the following circumstances:

(1) When a potential boarding or adoptive family makes a routine inquiry or application to a compact state where they do not reside and this state wishes to have the home studied as a possible resource for any one of a number of children needing placement. The family should be directed to apply in the state in which they reside.

(2) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(3) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law. [Order 1081, § 388-71-025, filed 12/24/75.]

**WAC 388-71-030 Child leaving Washington state.** For a child leaving the State of Washington:

(1) The ESSO, voluntary agency or court in Washington completes sections I, II and III of the request to place child (form ICPC-100A), five copies of which are forwarded to the office of social service, attention: deputy compact administrator. Summary's regarding the child and in the case of foster family care or an adoptive placement, the prospective foster or adoptive family are to accompany the request for placement.

(2) The Washington Deputy Compact Administrator will forward copies of the referral request and summaries to the compact administrator of the receiving state, who will forward them to their local agency requesting a recommendation within 30 days of the suitability of the plan.

(3) Upon receipt from the receiving state of their approval or disapproval of the plan for the child, the Washington deputy compact administrator will inform the local agency by forwarding copies of the returned forms and other information.

(4) Local agencies (the sending agency and the agency in the receiving state responsible for supervision) are responsible for ongoing planning during the continuance of placement. [Order 1081, § 388-71-030, filed 12/24/75.]

**WAC 388-71-035 Child entering Washington state.** For a child entering Washington:

(1) The compact administrator of the sending state will forward request to place child forms to the Washington deputy compact administrator, together with summaries for the child and in the case of foster family care or an adoptive placement, the prospective foster or adoptive family. The compact administrator will forward the request to the appropriate local Washington agency.

(2) The local Washington agency will:

(a) provide the requested service;

(b) make a determination regarding the suitability of the plan; and

(c) forward such study and recommendation to the Washington compact administrator within 30 days.

(3) The Washington compact administrator will notify the compact administrator in the sending state as to approval or disapproval of the proposed placement. The completed form shall be forwarded with the additional information considered necessary.

(4) Local agencies (the sending agency and the agency in the receiving state responsible for supervision) are responsible for ongoing planning during the continuance of placement. [Order 1081, § 388-71-035, filed 12/24/75.]

**WAC 388-71-040 Procedures for change in placement status.** When there is a change in the placement status of the child, such as placement terminated by adoption or by a change in plans for the child, the supervising agency (the receiving state) shall initiate interstate compact report on placement status of child, notifying the state compact administrator. The compact administrator of the receiving state is responsible for forwarding copies of the report to the sending state administrator. [Order 1081, § 388-71-040, filed 12/24/75.]

**WAC 388-71-045 Retention of jurisdiction.** The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein. [Order 1081, § 388-71-045, filed 12/24/75.]

**WAC 388-71-050 Financial responsibility.** (1) The amount of financial responsibility for a child is determined by the sending state.

(2) In the event of financial default, the provisions of RCW 26.16.205 and RCW 26.20.030 shall apply.

(3) Any agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the director of the office of program planning and fiscal management in the case of the state and of the treasurer in the case of a subdivision of the state. [Order 1081, § 388-71-050, filed 12/24/75.]

**WAC 388-71-055 Penalty for illegal placement.** (1) The sending, bringing, or causing to be sent of a child in violation of the terms of this compact shall constitute a

violation of the laws respecting the placement of children. Any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place or care for children. (See RCW 26.34.010 Article IV)

(2) Further, according to RCW 26.34.080, any person, firm, corporation, association or agency which places a child in the state of Washington without meeting the requirements set forth herein, or any person, firm, corporation, association or agency which receives a child in the state of Washington, where there has been no compliance with the requirements set forth herein, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense. [Order 1081, § 388-71-055, filed 12/24/75.]

## Chapter 388-72 WAC SERVICES FOR THE BLIND

### WAC

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**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 388-72-010 Services for the blind—Organization. [Manual VII, Regulation 1.00 and chart, filed 1/24/64, effective 3/1/64.] Repealed by Order 867, filed 10/26/73.
- 388-72-290 Prevention of blindness and restoration of vision—Participating ophthalmologists. [Manual VII, Regulation 4.70, filed 1/24/64, effective 3/1/64.] Repealed by Order 867, filed 10/26/73.

**WAC 388-72-020 Advisory committee for the blind.** An advisory committee to services for the blind was created by state law in 1955. This committee of three blind persons is appointed by the director of the state department of public assistance and serves six-year terms on a rotation basis. Meetings are held quarterly. The function of the committee is to recommend policies and procedures and to advise in regard to services, activities, programs, or any matter which in its judgment will contribute to the welfare of blind persons. A great deal of emphasis is placed upon rehabilitating and assisting the blind to become independent. [Manual VII, Regulation 1.11, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-025 Physicians' eye advisory committee.** The physicians' eye advisory committee, organized in April, 1937, is the policy-making and eye-care standards committee for the prevention of blindness program. The committee also assists in educational programs and in disseminating information in the field of prevention of blindness. Eight ophthalmologists, selected statewide, comprise the committee. They are appointed by the director for a period of four years on a rotation basis. [Manual VII, Regulation 1.12, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-030 Aid to blind.** The only responsibility which services for the blind has for aid to the blind, is in arranging for the review of the applicant's eye reports by the staff consultant to determine if he meets the visual requirements for aid to the blind. However, every application for AB received by the CO should be carefully reviewed to determine whether other services available through services for the blind might assist the blind applicant to achieve a greater measure of self-sufficiency. [Manual VII, Regulation 1.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-035 County office responsibility.** County office staff is responsible for knowing the services available to the blind, for interpreting the program, and for cooperating with community service agencies to improve and extend the services to those blind persons who may need them. [Manual VII, Regulation 1.30, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-040 Mail address of services for the blind.** All correspondence, memoranda, forms, reports, vendor's vouchers which the local offices of the SDPA submit to the services for the blind according to the policies and procedures in chapter 388-72 WAC, shall be mailed to:

Services for the Blind  
State Department of Public Assistance  
3411 South Alaska Street  
Seattle, Washington 98118

[Manual VII, Regulation 1.40, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-045 Abbreviations.** As used in Manual VII, the following terms and abbreviations shall mean:

CO—County or local office of the state department of public assistance

CWS—Child welfare services program of the SDPA  
Department—State department of public assistance

PB—Prevention of blindness program of the SDPA

PC—Placement counselor

SFB—Services for the blind unit of the SDPA, or services for the blind program

SDPA—State department of public assistance

SO—State office of the SDPA in Olympia

VRO—Vocational rehabilitation officer

VRSB—Vocational rehabilitation services for the blind. [Manual VII, Regulation 1.50, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-100 Allotment for blind student attending college or university—General.** (1) RCW 28-76.130 authorizes the state board of education to allot to a blind student attending a college or university within the state of Washington a sum not to exceed two hundred dollars per quarter, or so much thereof as may be necessary, as determined by the state board of education.

(2) In order to receive benefits, the blind student must have been admitted to the institution of higher learning, must have been a resident of the state of Washington for one year, and must provide evidence that he does not have sufficient resources to finance his education.

(3) Approval of an allotment to a blind student is dependent upon a certificate from the institution of higher learning that tuition and laboratory fees will be waived for the blind student.

(4) The state board of education makes the decision on eligibility and amount granted to the student. The state department of public instruction always sends a copy of the allotment letter to services for the blind. [Manual VII, Regulation 2.00, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-105 Allotment for blind student attending college or university—Application for allotment.** (1) The student must apply to the college or university of his choice for admission and for an allotment in order to be considered an applicant.

(2) The institution provides the student or prospective student the application and certificate form. The student completes the application section and the college or university completes the certificate section agreeing to waive tuition and laboratory fees. The institution sends the application to the department of public instruction for approval or disapproval. [Manual VII, Regulation 2.10, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-110 Allotment for blind student attending college or university—Administrative relationship between state department of public assistance and superintendent of public instruction.** (1) The state superintendent of public instruction has asked services for the blind to assist and cooperate, when requested, in providing to the state department of public instruction information concerning the applicant's residence, financial need, and vision defect.

(2) Services for the blind forwards a request from the department of public instruction to the appropriate CO which secures the desired data. The CO reports the information to services for the blind. [Manual VII, Regulation 2.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-115 Allotment for blind student attending college or university—Application from blind person interested in attending college or university.** (1) Occasionally a blind person may request CO assistance in planning for attendance at a college or university. The CO assists the individual in making an educational plan that will enable him to realize his educational aims and become a more self-sufficient person within his own abilities. The purposes of the law are broad and do not limit the course of study or educational aims of the student.

(2) If the individual wishes to apply for an allotment from the state department of public instruction, the CO assists him in making application for admission to a school, by explaining the procedure and requirements and by conferring with the school, if necessary, to interpret the student's needs.

(3) The CO also secures information regarding the blind individual's residence, financial need and vision. This information is forwarded to services for the blind. [Manual VII, Regulation 2.30, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-120 Allotment for blind student attending college or university—Responsibility of college or university.** The college or university is responsible for accepting or denying the student's application for admission, for counseling on his course of study, and for answering any questions regarding his educational program. [Manual VII, Regulation 2.40, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-125 Allotment for blind student attending college or university—Use of allotment from state board of education.** The allotment from the state board of education shall be used to provide readers, books, recordings, recorders, or other means of reproducing or imparting ideas while the student is attending school. [Manual VII, Regulation 2.50, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-150 Home teaching services for adult blind—Purpose.** (1) Title 74 RCW provides for "teaching of subjects to assist blind persons in the ease and enjoyment of daily living".

(2) The primary aim of home teaching services is to develop self-reliance in a blind person, to assist him in

understanding his assets and liabilities and to help him to adjust to his blindness. The home teaching service for the rehabilitation of the adult blind includes the teaching of handicrafts, reading and writing Braille, typing, personal grooming, the operation of a talking book machine, and recreation. The home teacher, vocational rehabilitation officer and caseworker work as a team to provide a service which will assist the blind person to achieve social and/or economic independence. [Manual VII, Regulation 3.10, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-155 Home teaching services for adult blind—Teaching plan.** (1) Before formulating a teaching plan the home teacher secures information about the applicant's blindness, his family and personal background, age, health, education and work experience, physical, mental and emotional limitations, and personal adjustment to blindness. The applicant's interests, aptitudes, likes and dislikes and what he wishes from the service are also considered before the teaching plan is initiated.

(2) In making the teaching plan the home teacher evaluates her findings with her supervisors to determine the teaching plan to initiate and the approximate duration of services needed to provide the maximum assistance to the applicant. She utilizes this knowledge in planning with the applicant a course of study which has the probability of success. The home teacher, through a sustaining relationship, helps the individual to follow through on a plan selected. The home teacher by interpretation to relatives and friends assists them in understanding some of the problems the blind person faces and suggests ways in which they can help him. [Manual VII, Regulation 3.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-160 Home teaching services for adult blind—Personal adjustment services.** The home teacher gives instruction on orientation of his home environment, foot travel in the home and immediate yard. She teaches skills necessary to meet the demands of daily living, for example, homemaking. She also teaches common handicrafts, embossed prints, pencil writing, typing, Braille, and recreational devices. Along with the teaching of skills, the teacher assists the applicant with his personal problems of adjustment. She recognizes the nature and scope of the total services needed to enable the client to function adequately within the limits of his ability. [Manual VII, Regulation 3.30, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-165 Home teaching services for adult blind—Relationship with staff, other agencies and community.** (1) The home teacher works with the vocational rehabilitation officer, CO caseworker and other agencies to the end that all services are coordinated and utilized to benefit the blind individual. The home teacher is expected to refer any student who is feasible for vocational rehabilitation to the VRO. Maximum service to blind persons can be given only when there is complete cooperation between the family, the caseworker, the home teacher, and the VRO.

(2) The home teacher is considered a member of the CO staff while giving service to blind persons in a county. It is important for the CO caseworker to acquaint the home teacher with any case record information which will assist her in understanding the blind person's situation.

(3) The home teacher always refers persons who have questions regarding the assistance programs to the CO. When possible, she interprets the home teaching service to community groups and individuals so that everyone who might be interested in the service is aware of its availability. [Manual VII, Regulation 3.40, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-170 Home teaching services for adult blind—Case record.** The home teacher maintains a case record which describes the determination of visual eligibility, the need for service, the adjustment process, and the justification for the service given. If the client is a recipient of public assistance a duplicate copy becomes a part of his case record. [Manual VII, Regulation 3.50, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-175 Supervision and consultation.** The home teacher uses supervision and consultation in developing meaningful plans for client services. The home teacher discusses with the supervisor the proper interpretation and disposition of situations for which there is no departmental policy. [Manual VII, Regulation 3.60, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-180 Termination of service.** The home teacher terminates services to the individual when the goals for the service agreed upon between teacher, client and supervisor have been reached. [Manual VII, Regulation 3.70, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-200 Prevention of blindness and restoration of vision—Legal basis—Objective.** (1) In the state of Washington a program for the prevention of blindness was established by law in 1937 (RCW 74.16-.170). Responsibility for providing this service statewide is delegated to the services for the blind unit.

(2) The prevention of blindness program in the department has as its major objective the encouragement of prompt, specialized medical eye care for conditions in which sight is endangered or sight can be restored, and assistance with costs of care when necessary.

(3) The prevention of blindness program shall cooperate with national organizations, such as the American foundation for the blind and the national society for the prevention of blindness, with state and local departments and agencies, and with the participating ophthalmologists to further programs for the public education and research. [Order 867, § 388-72-200, filed 10/26/73; Manual VII, Regulation 4.00, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-205 Prevention of blindness and restoration of vision—Physicians eligible to render services.** Doctors of medicine certified by the American

board of ophthalmology, or meeting training requirements for certification, who agree in writing to abide by the department's rules may render services in the prevention of blindness program. Credentials shall be reviewed by the eye physicians' advisory committee to determine if the physician meets the above requirements. [Order 867, § 388-72-205, filed 10/26/73; Manual VII, Regulation 4.10, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-207 Prevention of blindness and restoration of vision—Staff ophthalmologist.** Services for the blind shall employ an ophthalmological consultant on a part-time basis. His appointment shall be recommended by the eye physicians advisory committee for a two year term. He shall be responsible for reviewing medical recommendations made by participating ophthalmologists to determine if the proposed services fall within the scope of services for the blind. [Order 867, § 388-72-207, filed 10/26/73.]

**WAC 388-72-210 Prevention of blindness and restoration of vision—Services provided.** Prevention of blindness services shall include:

- (1) Medical treatment of any eye condition which may be expected to cause loss of vision; treatment must be provided by a participating ophthalmologist;
- (2) Surgery by a participating ophthalmologist to prevent blindness or to restore sight;
- (3) Hospitalization for eye surgery or treatment in a private hospital designated by the ophthalmologist;
- (4) X-rays of the orbit;
- (5) Drugs prescribed in conjunction with authorized eye care, except lipotriad, vitamins, and experimental drugs;
- (6) Appliances: Prosthetic eyes following enucleation; contact lenses when necessary for vision; glasses following cataract surgery and glasses prescribed for the treatment of strabismus when no other resource is available, and funds available to services for the blind permit. [Order 867, § 388-72-210, filed 10/26/73; Manual VII, Regulation 4.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-215 Prevention of blindness and restoration of vision—Services excluded.** Certain eye conditions which are degenerative and not subject to amelioration, and most conditions pertaining to tear ducts and eyelids rather than the eye itself shall be excluded. [Order 867, § 388-72-215, filed 10/26/73.]

**WAC 388-72-220 Prevention of blindness and restoration of vision—Persons eligible.** Persons eligible for prevention of blindness services are

- (1) Any person receiving federal aid or general assistance, or whose needs are included in such aid or assistance, and any child receiving foster care at the department's expense. No further determination of eligibility is required.
- (2) Any person certified as eligible for FAMCO, or any person currently receiving medical only (MO) as determined under WAC 388-83-030 through 388-83-050. No further determination of eligibility is required.

(3) Any person not meeting the criteria in subsections (1) or (2) whose inability to pay for eye care is established according to the standards in WAC 388-72-225 through 388-72-235, within the availability of funds. [Order 867, § 388-72-220, filed 10/26/73; Manual VII, Regulation 4.31, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-225 Prevention of blindness and restoration of vision—Resources.** (1) Exempt resources shall be determined in relation to the category of assistance the patient would qualify for except for income. Available excess resources shall be applied toward the cost of care.

(2) Full advantage shall be taken of health and accident insurance, and medicare benefits. Use must be made of other available medical resources, such as veterans' hospitals and U.S. public health service facilities, unless distance or some unusual factor makes this impracticable. In an accident case, third party liability must be considered and reported to the state office and services for the blind. [Order 867, § 388-72-225, filed 10/26/73; Manual VII, Regulation 4.32, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-230 Prevention of blindness and restoration of vision—Requirements.** (1) The financial eligibility of a person applying under WAC 388-72-220(3) shall be determined according to the rules in this section.

(2) If an applicant's net income exceeds the monthly maintenance standards in WAC 388-83-035 and 388-83-040, exempt income shall be determined by using the monthly maintenance standard plus actual expenses for the following obligations:

- (a) Regular payments made for the support of dependents in compliance with a court order,
- (b) Life insurance premiums,
- (c) Essential transportation costs including car payments and upkeep,
- (d) The actual cost of shelter in excess of 30% of the family's net income,
- (e) Delinquent accounts for food, rent, utilities, fuel, and current payments to creditors on essential and necessary items, provided payments are made regularly and the applicant has receipts for payment.

(3) In evaluating the applicant's financial need for medical care, the current medical and hospital payment schedules of services for the blind shall be used.

(4) Currently available income in excess of the allowed budget items shall be applied toward the cost of eye care. Commitment by the patient to a plan for future payments is not required.

(5) When the department pays part of the cost of care, the services for the blind schedules for payment apply to all services rendered.

(6) When an applicant qualifies for medical eye care, but does not qualify for any other grant or medical assistance, the coding "Z" is used. When an applicant is receiving other grant or medical assistance, the applicable coding is used and serves as a basis for securing matching Title XIX funds in all cases meeting Title XIX requirements. [Order 867, § 388-72-230, filed

10/26/73; Manual VII, Regulation 4.33, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-235 Prevention of blindness and restoration of vision—Residence.** To be eligible an applicant must be residing in the state of Washington for other than temporary purposes, provided that this rule may be waived when care is required for an emergent condition or an injury. [Order 867, § 388-72-235, filed 10/26/73; Manual VII, Regulation 4.34, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-240 Prevention of blindness and restoration of vision—Application.** (1) A person not qualifying for the prevention of blindness services on the basis of WAC 388-72-220(1) or (2) may apply at the local office for the determination of his financial eligibility. The local office reports its findings and decision to services for the blind. The report covers the applicant's resources, income, and requirements as outlined in WAC 388-72-225 through 388-72-235.

(2) The application of a person having sufficient income and resources to meet his medical and maintenance needs shall be denied. The local office shall report its findings in such instances to services for the blind. The applicant must be informed of his right to a fair hearing. [Order 867, § 388-72-240, filed 10/26/73; Manual VII, Regulation 4.40, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-250 Prevention of blindness and restoration of vision—Authorization of services.** (1) Eye examination.

(a) An original eye examination is authorized by the CO when medical or surgical treatment to prevent blindness or to restore vision appears to be deemed necessary. The completed eye examination includes pathology, fields; a statement of the visual acuity of each eye with the best possible correction and recommendations for care. All patients over the age of 35 must have a tension check to rule out glaucoma.

(b) The eye examination shall be made by a participating ophthalmologist of the applicant's choice.

(c) An eye examination involving refractive errors only is not the legal or financial responsibility of SFB.

(d) The eye examination must be authorized by the CO if the fee is to be paid by services for the blind. The fee is fifteen dollars. An ophthalmologist is not paid for an eye examination if he fails to submit his report (SF 5124) to SFB within thirty days of the date of authorization.

(e) If another agency has paid for the eye examination within a two year period re-examination is not authorized. If a patient is dissatisfied and wishes an examination by another ophthalmologist, it is his responsibility to pay for the examination.

(f) An office call may be authorized for cataract checks nine months after the original eye examination, or for any patient who has experienced visual difficulty. The office call is authorized immediately by the CO and notification is sent to SFB within twenty-four hours.

(g) The CO authorizes an eye examination for an eligible person on SF 5039 in triplicate. The original and duplicate with two copies of SF 5124 and the voucher (Form A 19 PA) are forwarded to the ophthalmologist. The triplicate SF 5039 is retained by the CO.

(h) The ophthalmologist should be instructed to forward one copy of SF 5039, both copies of SF 5124, and the voucher, Form A 19 PA, directly to: Services for the Blind, 3411 South Alaska Street, Seattle, Washington, 98118. One copy of SF 5124 is returned to the CO after review by the staff consultant. In several larger counties a special procedure has been worked out for eye examinations.

(i) An applicant (other than a public assistance recipient) who has resources sufficient to pay for an eye examination, is referred to the ophthalmologist selected by memorandum, rather than SF 5039. The memorandum, prepared in triplicate, explains that the patient is responsible for the examination fee. A copy of this memorandum with the SF 5124 and a brief report of the applicant's situation are forwarded to SFB.

(2) Emergency eye care. When emergency eye treatment or surgery is necessary, the examining ophthalmologist or the CO shall immediately notify SFB. If the emergency occurs during a week-end or on a holiday, the CO report is telephoned on the first working day thereafter. The department pays for eye care only when reported and properly authorized.

(3) Eye care for children.

(a) Eye care for children is a part of the prevention of blindness program. This service is available when diagnosis has revealed an eye condition for which preventive care is indicated. Since refractive errors are more prevalent among school age children, the initial eye examination for a recipient child should be secured through the SDPA medical care program.

(b) An eligible child not receiving public assistance should be referred for an eye examination to an ophthalmologist in his community; an examination is authorized according to the above procedure.

(c) The parent's consent is necessary before SFB can authorize surgery for children under twenty-one years of age. The CO secures the parent's consent on SF 5834 prepared in duplicate. Both copies are forwarded to SFB. [Manual VII, Regulation 4.51, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-255 Prevention of blindness and restoration of vision—Consultation services.** (1) Services for the blind reserves the right, upon the recommendation of the ophthalmological consultant, to request consultation for any person for whom care is or may be provided under the prevention of blindness program.

(2) Area consultant services are available to the participating ophthalmologist if he desires consultation for a PB patient.

(3) Consultation is required before surgery is performed when enucleation (removal of eye) is recommended, except when the eye to be removed is blind.

(4) Consultation is also required prior to corneal transplant surgery.



(5) Consultation must be secured from a physician who is not an associate of the examining ophthalmologist. [Manual VII, Regulation 4.52, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-260 Prevention of blindness and restoration of vision—Social summary.** (1) When cataract surgery has been approved by the ophthalmological consultant, services for the blind requests a social summary. Adequate care after hospitalization is essential to a good result, and plans for this must be considered in advance.

(2) The summary should include the following:

(a) Family composition and family relationships

(b) Living arrangements: Type of housing, location and facilities, and housekeeping standards

Arrangements for post-surgical care are the responsibility of the CO office.

(c) General health: Current health status, physical limitations, medical care being received, opinion of family doctor regarding advisability of eye surgery. For patients over eighty-five a written medical statement is necessary.

(d) Anticipated benefits from surgery: Describe limitations in self-care and daily living resulting from loss of vision and indicate whether surgery would be anticipated to change the situation.

(e) Care following surgery: Are there relatives or others who can provide shopping and housekeeping services following patient's discharge from the hospital, or is nursing home care indicated? Arrangements for post-surgical care are the responsibility of the CO.

(f) Cataract lenses are fitted several weeks after surgery and are an essential part of treatment. Services for the blind no longer routinely provides them. Can the patient or his relatives provide them, or would this involve a serious hardship? A minimum cost is thirty-five dollars.

(g) Any other information or observations concerning the patient's attitudes and circumstances which are relevant to the proposed surgery. [Manual VII, Regulation 4.53, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-265 Prevention of blindness and restoration of vision—Physical examination.** A physical examination is not done routinely. The medical information obtained as outlined in the social summary is often sufficient. SFB may request a physical examination for any patient if the staff consultant deems it necessary. The fee for this examination is twelve dollars and fifty cents. [Manual VII, Regulation 4.54, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-270 Prevention of blindness and restoration of vision—Glasses.** Cataract lenses are not routinely provided under the prevention of blindness program. However, instances in which this policy works a severe hardship on the patient should be brought to the attention of the SFB. This information should be included in the social summary. In the event glasses cannot be obtained through a community facility, SFB has a special resource to provide a limited number of lenses.

[Manual VII, Regulation 4.56, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-275 Prevention of blindness and restoration of vision—Prostheses.** Services for the blind provides an artificial eye for those who have had enucleation. It is the responsibility of the ophthalmologist to make arrangements directly with the laboratory for this service providing he notifies the SO prior to referral. SFB allows thirty dollars for a plastic eye and fifteen dollars for a glass eye. The laboratory bills SFB directly. [Manual VII, Regulation 4.57, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-280 Prevention of blindness and restoration of vision—Drugs.** The ophthalmologist is authorized to prescribe only those drugs approved by the physician's eye advisory committee. Payment for drugs not approved must have prior approval by the ophthalmological consultant. The prescription must be signed by the ophthalmologist who issued it. The name of the patient must appear on the voucher. Pharmacies should be instructed to mail their vouchers directly to Services for the Blind, 3411 South Alaska Street, Seattle, Washington, 98118. The ophthalmologist uses his personal prescription blank, writing "Services for the Blind" thereon to indicate the department's responsibility for the cost. [Manual VII, Regulation 4.58, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-285 Prevention of blindness and restoration of vision—Reports.** (1) Services for the blind furnishes the following reports to the CO:

(a) Ophthalmologist's reports on surgical results

(b) A copy of the explanation to the examining ophthalmologist of the reason for denial of requested services

(c) Notification when services for a patient have been completed and case is to be closed

(d) Copies of all medical care requisitions

(e) Copies of correspondence directed to SFB by participating ophthalmologists.

(2) The county office sends the following reports to services for the blind:

(a) Original of correspondence received directly from ophthalmologist

(b) Notification when the patient's grant is terminated. The report must include full details relative to available resources to meet eye care.

(c) Transfer of patient to another CO

(d) Death of patient for whom treatment has been authorized. [Manual VII, Regulation 4.60, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-300 Rehabilitation center for the blind.** (1) The rehabilitation center for the blind provides the blind person realistic evaluation and help in formulating a plan for his life that will be most beneficial to him. This is accomplished through the association with other blind persons, counseling with the various instructors at the center, work tryouts, orientation and travel training, and the help of professional persons in their

specialized fields. With this background, the blind person is better able to plan towards a specific vocational goal with his counselor.

(2) Realizing that one of the first considerations in the economic independence of a blind person is his ability to get where he wants to go with the minimum of assistance, early emphasis is placed on travel orientation. During the stay at the center, guidance is given on personal management, work habits, employer-employee relations, and other personal and social contacts. Physical assets of the individual are tested through the use of hand and power tools in an actual work situation and here, work tolerance, coordination and finger dexterities are determined. At the same time, attitudes toward the job, his fellow workers and supervisors are noted. In order to evaluate the vocational potentialities of the individual and to provide a therapeutic environment the services of specialized personnel are employed. Among these are a clinical psychologist, a psychiatrist, psychiatric social worker, medical supervisor, physical therapist, and other diagnostic and therapeutic personnel as indicated on a case-by-case basis. Near the end of the individual's stay at the center, all pertinent information regarding him is presented and discussed at a meeting staffed by the vocational rehabilitation officer, the supervisor, the psychologist and all other persons who have worked with him at the center. From the information and recommendation presented, the vocational rehabilitation officer and the client are better equipped to work toward a realistic vocational goal.

(3) The rehabilitation center does not provide specific job training. However, specialized training, if desired by the vocational rehabilitation officer and the client, can be provided at the training center if the training falls within the scope of its activities. [Manual VII, Regulation 5.00, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-305 Rehabilitation center for the blind—Application.** A blind resident of the state of Washington interested in the services of the rehabilitation center makes application to the VRO in his area. A nonresident blind person may apply through the vocational rehabilitation agency in his state. [Manual VII, Regulation 5.10, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-310 Rehabilitation center for the blind—Eligibility.** In general, the eligibility requirements for attendance at the rehabilitation center are the same as those required for VRSB. [Manual VII, Regulation 5.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-315 Rehabilitation center for the blind—Maintenance while attending the rehabilitation center.** Transportation, incidental expenses, and board and room if living beyond commuting distance, are provided for the client who is financially unable to meet these costs. A person receiving public assistance is expected to apply part of his grant toward maintenance. The arrangement is worked out on an individual basis with the VRO, CO caseworker and the client. The public assistance grant is not terminated during his stay at the center. Any additional training expense is provided

from vocational rehabilitation funds and is not to be considered a resource. [Manual VII, Regulation 5.30, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-350 Services for blind children—State department of public assistance responsibilities.** (1) Any pertinent service provided by the department for a child is available to the blind child. When the parents of a blind child request help from the CO or the SO with problems or questions arising because of their child's blindness or visual difficulty, the request is referred to the CWS unit in the CO. Services for the blind unit will provide consultation services by a medical social worker and resource material to the CO when requested by the child welfare representative.

(2) When the parents of blind children are receiving ADC, or assistance through programs other than CWS, and wish help with their child, a conference is arranged with the CWS supervisor to determine the plan that will be of most help to the child either by transferring the case or by continuing in the same program. The decision for transfer is based upon the problems within the parent-child relationship and the difficulties which the child is having.

(3) Services for the blind unit maintains a register of blind children containing the name, address, birthdate, and visual difficulty of the child. Referrals are received from ophthalmologists, public health departments, parents and the CO. This register is maintained so that parents may be informed of available services and as an aid in planning for needed resources. When the CO learns of a blind child, who has not been reported to SFB, the information is provided to SFB. A medical social work consultant is available to work with county staff and state office CWS representatives upon request.

(4) Services for the blind works with parent groups and other community groups concerned with the blind child in interpreting the needs of the blind child and the services that are available. [Manual VII, Regulation 7.10, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-355 Services for blind children—State school for the blind.** (1) The state school for the blind is a residential school for blind children from the ages of three to twenty-one. Any educable child whose parents are residents of the state may be admitted. Public school curriculum is followed; the teachers are certified and have additional training in teaching the visually handicapped child. Children living in the area may attend as day students. High school students attend Vancouver High School. There is a special department for the deaf-blind child.

(2) Services for the blind unit works directly with the state school for the blind to develop and establish procedures that will aid in understanding the needs of the child. The state school for the blind requests from services for the blind case studies for all children whose parents are applying for their admission to the school. In addition, the school may request a case study for those children already admitted for whom the social history would be helpful in understanding the child's difficulties and needs. The vocational rehabilitation officer works

directly with the faculty and students enrolled in the eleventh and twelfth grades who are potential candidates for referral to the rehabilitation center. [Manual VII, Regulation 7.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-400 Talking book machines—General.** Talking book machines are loaned to persons legally blind by the U.S. Library of Congress and distributed and repaired through SFB. [Manual VII, Regulation 8.00, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-405 Talking book machines—Distribution.** Talking book records are distributed by the Library for the Blind, Seattle Public Library, 425 Harvard East, Seattle. A talking book review of new recordings called "Talking Book Topics" is issued bi-monthly and available without charge by writing to the American Foundation for the Blind, 15 West 16th Street, New York 11, New York. [Manual VII, Regulation 8.10, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-410 Talking book machines—Application procedure.** (1) Application for the loan of a talking book machine is made to the CO. SF 5883 is used for this purpose. A home visit is required in the application process only when the applicant is unable to come to the CO. If there is no report of eye examination verifying legal blindness on file in the CO or SFB, the applicant must furnish a physician's or optometrist's statement. SF 5833 and statement as to vision, if necessary are forwarded to the SFB.

(2) Shipping instructions are given on SF 5883. If the CO, after thoroughly reviewing the procedures for care of the machine and the return of the proper documents, wishes to have the machine sent directly to the borrower, his mailing address is shown on SF 5883. If the CO prefers to deliver the machine to the borrower, shipment to the CO is specified. [Manual VII, Regulation 8.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-415 Talking book machines—Eligibility for talking book machines.** (1) A person is eligible for the loan of a talking book machine if he:

(a) Has central visual acuity of 20/200 or less in the better eye, with correcting glasses; or if central visual acuity is more than 20/200 has a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees.

(b) Is five years of age or older.

(c) Is residing in the state with intent to remain for other than a temporary period.

(2) Persons in hospitals, nursing homes, or other institutional facilities are eligible for talking book machines.

(3) School officials or institutional officials may apply for talking book machines providing they furnish the necessary verification of eligibility for each individual for whom they apply. [Manual VII, Regulation 8.30, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-425 Talking book machines—County office responsibility for talking book machine.** (1) The CO shall assist a potentially eligible person to secure a talking book machine by explaining the availability of the machine and by helping him to complete an application.

(2) The CO shall maintain a record as a service case for each borrower and should notify SFB of address changes. A machine shall not be taken out of the state.

(3) The CO shall instruct each new borrower in the proper operation and care of the machine. In the case of small children a responsible adult should be so instructed.

(4) Talking book machines are the property of the U.S. government. Loss or theft of a machine should be reported immediately to SFB, the local police department, and the nearest office of the federal bureau of investigation. [Manual VII, Regulation 8.40, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-435 Talking book machines—Issuance of machine.** (1) The SFB office is the central depot for storage, shipment and repair of machines.

(2) When SFB receives SF 5883 a machine is mailed according to the shipping instructions on SF 5883. If a machine is not available, the order is filled according to the date of application.

(3) The following material is mailed with the machine:

(a) An addressed library card to be filled out and mailed to the library by the new borrower to enable him to get on the mailing list of the Seattle Public Library.

(b) An addressed envelope containing one borrower card to be signed by the borrower or responsible person and mailed to the SFB.

(c) An addressed shipping label which permits the borrower to return his machine for repair or cancellation. Parcel post on talking book machines is free. [Manual VII, Regulation 8.50, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-445 Talking book machines—Return of machine.** (1) A talking book machine should be returned immediately when in need of repair, no longer wanted, or not used by the borrower. The supply of machines is limited.

(2) The shipping carton is specially constructed to protect the machine in shipment and should be retained by the borrower to return the machine.

(3) If the machine is being returned for repair, the borrower or the CO should notify SFB if a replacement is wanted.

(4) If the machine is being returned because it is no longer needed, the borrower or the CO should notify the SFB that no replacement is wanted.

(5) The CO shall notify SFB when a borrower dies or moves from the state. [Manual VII, Regulation 8.60, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-500 Training center for the blind—General.** Special vocational training is provided in those fields in which community resources for training are not

available or practical for blind persons. Training may be given in a general vocational field or for a specific job to which the student will be referred. Training is provided by the regular staff of the training center with the assistance, when deemed advisable, of instructors from vocational schools or specialists from the trades. Special training is provided for those who wish to establish their own business. [Manual VII, Regulation 9.00, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-505 Training center for the blind—Application.** A blind person interested in training makes application to the VRO in his locality. [Manual VII, Regulation 9.10, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-510 Training center for the blind—Eligibility.** In general, eligibility for training is the same as that for other vocational rehabilitation services. [Manual VII, Regulation 9.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-515 Training center for the blind—Maintenance while attending training center.** Transportation, incidental expenses, and board and room, if living beyond commuting distance, are provided the trainee when he is financially unable to meet these costs. A person receiving public assistance is expected to apply part of his grant toward maintenance. The arrangement is worked out on an individual basis with the VRO, CO caseworker and the trainee. The PA grant is not terminated during the training period. Any additional training expense is provided from vocational rehabilitation funds and is not to be considered a resource. [Manual VII, Regulation 9.30, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-520 Training center for the blind—Placement.** While attending the training center the trainee works with his VRO and the placement counselor toward a specific vocational goal. [Manual VII, Regulation 9.40, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-550 Vending stands—General.** The vending stand program provides blind persons having the desire and ability an opportunity to operate a small business. Preference shall be given to blind persons licensed by the state in the operation of vending stands in public buildings owned by the federal government, the state of Washington, or any county, city, or political subdivision. Vending stands may be located in privately owned buildings where arrangements can be made with the owners of such buildings. [Manual VII, Regulation 10.00, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-555 Vending stands—Application.** A blind person interested in becoming a vending stand operator makes application to the VRO in his locality. [Manual VII, Regulation 10.10, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-560 Vending stands—Eligibility.** (1) A vending stand operator must be a VR client of the SFB unit.

(2) The licensing agency shall license only qualified applicants, giving preference to blind persons who are in need of employment, and who have resided for at least one year in the state of Washington. Licenses are issued only to persons who are determined by SDPA services for the blind unit to be:

- (a) Blind or whose vision with best proper correction is 20/200 or less in the better eye, or when the peripheral field has contracted to within twenty degrees of the fixation point in all quadrants;
- (b) Citizens of the United States;
- (c) At least twenty-one years of age; and
- (d) Certified by the state vocational rehabilitation agency as qualified to operate a vending stand. [Manual VII, Regulation 10.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-565 Vending stands—Selection.** The VRO provides the names of qualified applicants interested in becoming vending stand operators. Each applicant specifies the area in which he would accept employment. Preference is given those seeking training in the order of application. Placement in a vending stand depends upon the abilities and desires of the applicant after training. [Manual VII, Regulation 10.30, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-570 Vending stands—Training and placement.** Three months intensive training for vending management is given in Seattle by the vending stand supervisor. Subsequent training is also given the operator after placement in his stand. The vending stand operator's earnings begin with his "on the job" training. [Manual VII, Regulation 10.40, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-575 Vending stands—Maintenance during vending stand training.** Maintenance will be provided according to the policy in WAC 388-72-315. [Manual VII, Regulation 10.50, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-580 Vending stands—Equipment and stock.** The equipment and initial stock may be furnished from vocational rehabilitation case service funds; in such instances SFB retains title to the equipment and to the amount equal to the initial stock. [Manual VII, Regulation 10.60, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-585 Vending stands—Supervision.** A contractual agreement is entered into between the management of the building and SFB for the establishment and maintenance of a vending stand. A separate contractual agreement is entered into between the vending stand operator and SFB, establishing rules for operating the vending stand. A representative of the department visits each stand regularly to provide supervision necessary to insure a successful operation. The monthly earnings of a vending stand operator who receives public assistance are reported on SF 6462 to the county office by the tenth of the following month. [Manual VII, Regulation 10.70, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-590 Vending stands—Fair hearing.** A fair hearing shall be afforded in the manner established by RCW 74.08.070 to an operator dissatisfied with any action arising from the operation or administration of the vending stand. [Manual VII, Regulation 10.80, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-600 Vocational rehabilitation services for the blind—General.** (1) Vocational rehabilitation services for the blind are provided within the broad framework of the vocational rehabilitation administration of the USDHEW. Services available for the blind include all services offered by other vocational rehabilitation agencies to disabled persons.

(2) The objective of this program is a remunerative occupation. It includes practice of professions; self-employment; employment in competitive labor market; homemaking; farming or family work (including work for which payment is in kind rather than in cash); sheltered employment and home industry or other home-bound work of a remunerative nature. [Manual VII, Regulation 11.00, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-605 Vocational rehabilitation services for the blind—Eligibility for vocational rehabilitation services for the blind.** Eligibility for VRSB is determined on the basis of the following criteria:

(1) **Vision.**

(a) A person is eligible who has 20/200 or less (Snellen notation) vision in the better eye with proper correction or a limitation in the field of vision of 20 degrees of the fixation point in all quadrants; or

(b) Has vision better than 20/200, but has an eye condition of a progressive nature which may lead to blindness, and for whom a vocational handicap exists.

(2) **Substantial handicap.** The existence of a substantial handicap to employment caused by the limitations resulting from such disability.

(3) **Reasonable expectation of remunerative occupation.** A reasonable expectation that vocational rehabilitation services will enable the individual to engage in a remunerative occupation.

(4) **Residence.** An applicant must be a resident of the state for other than temporary purposes.

(5) **Age.** The minimum age for vocational rehabilitation services is sixteen years. The maximum age is related to general physical fitness for employment and the possibility for placement in the current labor market.

(6) No discrimination shall be shown with respect to sex, race, creed, color or national origin of the individual. [Manual VII, Regulation 11.10, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-610 Vocational rehabilitation services for the blind—Referral for vocational rehabilitation services for the blind.** (1) The CO shall refer to SFB any person who may be interested in and who appears to be eligible for VRSB.

(2) In referring a person for VRSB the CO shall complete SF 8636 in triplicate. One copy is retained for the CO case record.

(3) The VRSB office takes the client's application (SF 8650). [Manual VII, Regulation 11.20, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-615 Vocational rehabilitation services for the blind—Services provided.** (1) The SFB provides necessary rehabilitation services to each eligible individual found by the diagnostic study to require such services, including:

(a) Medical examinations for the diagnosis of the extent of disability and for the determination of the applicant's physical capacity to undertake vocational rehabilitation services.

(b) Counseling and guidance to help the disabled person select and attain a vocational goal.

(c) Medical, surgical, drugs, psychiatric and hospital care as needed to remove or reduce the disability.

(d) Prosthetic appliances such as hearing aids, artificial eyes, braces, etc., to increase the client's ability to work.

(e) Training in a vocational school, college or university, on-the-job training, tutoring, correspondence courses, and readers' services.

(f) Maintenance and transportation when needed while undergoing treatment or training.

(g) Occupational tools, equipment and licenses as necessary to enable the client to start in his vocational endeavor.

(h) A job placement which the client has the ability and training to handle competently.

(i) Follow-up after placement.

(j) Economic need.

(2) Certain services are conditioned on economic need. Other services are provided irrespective of the financial circumstances of the client. The services not conditioned on economic need are: Diagnostic services, training costs, counseling and guidance, and placement services. All other services listed above are conditioned on establishment of economic need by the VRO. [Manual VII, Regulation 11.30, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-620 Vocational rehabilitation services for the blind—Exchange of case information.** The exchange of case information between the VR and the public assistance staff shall be in the exclusive interest of providing the best possible service to the client, based on a full understanding of the pertinent information relating to his needs and potentialities. The confidential nature of information exchanged must be respected. [Manual VII, Regulation 11.40, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-625 Vocational rehabilitation services for the blind—County office responsibility.** The CO caseworker shall report in writing to the VRO information about major changes in the circumstances of a public assistance recipient and his family which might affect the vocational rehabilitation plan under consideration or in operation. Major changes may include family composition, income or requirements. Since the ultimate goal is self-support, the VRO and the caseworker should work

cooperatively with clients known to the public assistance offices. [Manual VII, Regulation 11.50, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-630 Vocational rehabilitation services for the blind—Costs incidental to vocational rehabilitation.** (1) Requirements directly attributable to an individual participating in a vocational rehabilitation plan are provided by VRSB.

(2) The public assistance grant for the individual and his family is recomputed if the individual must leave home in order to carry out the VR plan. [Manual VII, Regulation 11.60, filed 1/24/64, effective 3/1/64.]

**WAC 388-72-635 Vocational rehabilitation services for the blind—Vending stands.** According to the 1954 amendments to the Randolph-Sheppard Act, the selection of an operator of a vending stand must be made from persons who are vocational rehabilitation clients of the services for the blind unit. [Manual VII, Regulation 11.70, filed 1/24/64, effective 3/1/64.]

### Chapter 388-75 WAC

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**Reviser's note:** With the adoption of chapter 388-75 WAC the following chapters were repealed by Order 963; chapters 388-64, 388-65, 388-66, 388-67, 388-68 and 388-69 WAC.

**WAC 388-75-003 Definitions.** (1) An "agency" required to be licensed under the provisions of chapter 74.15 RCW means any person, firm, partnership, association, corporation or facility which receives children (under 18 years of age), expectant mothers (regardless of age) or adult retarded persons (18 years of age and older) for control, care or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children for adoption, irrespective of whether there is a compensation to the agency or to the children, expectant mothers or adult retarded persons for services rendered.



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

(3) "Secretary" means the secretary of the department of social and health services or his designee.

(4) "Requirement" means any rule, regulation or standard of care to be maintained by an agency. The meaning of such adjectives and adverbs as reasonable, adequate, suitable, sufficiently, etc., used in these regulations to qualify a person, building, or equipment shall be as determined by the department.

(5) "Supervising agency" means the department or the licensed child placing agency placing a person in a foster family home or family day care home. [Order 936, § 388-75-003, filed 5/23/74.]

**WAC 388-75-006 Non-licensed facilities unlawful.**

(1) It is unlawful for any agency to receive children, expectant mothers or adult retarded persons for supervision or care, or arrange for the placement of such persons, unless such agency is licensed as provided by this chapter. An agency operating without a license shall be guilty of a misdemeanor.

(2) An agency is subject to licensing regardless of the person or organization (parent, juvenile court, department, private child care agency, etc.) placing a child, expectant mother or adult retarded person in the care of the agency. [Order 936, § 388-75-006, filed 5/23/74.]

**WAC 388-75-009 Action against agency.** Notwithstanding the existence or pursuit of any other remedy, the secretary may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in the proceeding, maintain an action in the name of the state for injunction or such other relief as he may deem advisable against any agency subject to licensing under the provisions of chapter 74.15 RCW, RCW 74.32.040 through 74.32.055 (relating to adoptions) and RCW 74.13.031 (relating to child welfare services) or against any such agency not having a license as required by said provisions. [Order 936, § 388-75-009, filed 5/23/74.]

**WAC 388-75-012 Exceptions to rules.** In individual cases the department, at its discretion, may waive specific requirements which because of the cultural patterns of the persons served or which for other reasons are inappropriate, and may approve alternative methods of achieving the intent of specific requirements if such waiver or approval does not jeopardize the safety or welfare of the persons in care. Licenses issued under the provisions of this section may be limited or restricted by the department. [Order 936, § 388-75-012, filed 5/23/74.]

**WAC 388-75-015 Agencies to be licensed—Definitions—Categories.** (1) Separate requirements as specified in this section are applicable to various categories of agencies because of variations in the ages, sex and other characteristics of persons served and because of variations in the purposes and services offered or the size and structure of agencies and other relevant factors:

(2) "Group care facility" means an agency which is maintained and operated for the care of a group of children on a 24 hour basis. A group is generally defined as six or more persons. Separate requirements are adopted for the following sub-categories of group care facilities:

(a) "Group home" means an agency which operates and maintains a group care facility for the care of not more than 10 persons (including minor children of staff residing on the premises) under the age of 18 years on a 24 hour basis in the licensee's family abode or other suitable facility which meets the requirements of this chapter.

(b) "Child care institution" means an agency which operates and maintains a group care facility on a 24 hour basis for the care of a group of 11 or more persons under the age of 18 years (including minor children of staff residing on the premises).

(3) "Child placing agency" means an agency which places children for temporary care, continued care, or for adoption.

(4) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement. This category includes maternity homes for expectant mothers prior to delivery, residential care to mothers and their children for a period of time following delivery, and other services related to expectant mothers and their children. Facilities licensed under the provisions of this chapter shall be exempt from the provisions of chapter 18.46 RCW.

(5) "Day care center" means an agency which regularly provides care for a group of children for periods of less than 24 hours. Separate requirements are adopted for the following sub-categories of day care centers:

(a) A day care center for the care of 13 or more children. No such center shall be located in a private family residence unless that portion of the residence to which the children have access is used exclusively for the children during the hours the center is in operation or is separate from the usual living quarters of the family.

(b) A "mini-center" means a day care center for the care of 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care and supervision the child is placed, or for the care of from seven through 12 children in the family abode of such person or persons.

(c) A day treatment program means an agency which provides care, supervision, and appropriate therapeutic and educational services during part of the 24 hour day for a group of persons under the age of 18 years and who are unable to adjust to regular or special school programs or full-time family living because of disruptive behavior, family stress, learning disabilities or other serious emotional or social handicaps.

(6) "Foster family home" means an agency which regularly provides care during any part of the 24 hour day to one or more children, expectant mothers or adult retarded persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother or adult retarded person is

placed. Separate requirements are adopted for the following sub-categories of foster family homes:

(a) A foster family home for adults means an agency which regularly provides care to one or two adult retarded persons. Facilities for the care of three or more senile or other infirm persons are licensed as "boarding homes" under chapter 18.20 RCW. See chapter 388-63 WAC for minimum licensing requirements for family homes for mentally retarded adults.

(b) A full-time foster family home means an agency which regularly provides care on a 24 hour basis to 1 or more, but not more than 6 foster children under the age of 18 years or to not more than 3 expectant mothers in the family abode of the person or persons under whose direct care and supervision the child or expectant mother is placed.

(c) A family day care home means an agency which regularly provides care during part of the 24 hour day to one or more, but generally not more than six children in the family abode of the person or persons under whose direct care and supervision the child is placed. [Order 936, § 388-75-015, filed 5/23/74.]

**WAC 388-75-018 Exemptions—Facilities not subject to licensing.** "Agency" shall not include

(1) Persons related by blood or marriage to the child, expectant mother or adult retarded persons in the following degrees: parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, and/or first cousin,

(2) Persons who are legal guardians of the child, expectant mother or adult retarded persons,

(3) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person does not engage in such activity on a regular basis, or where parents on a mutually cooperative basis exchange care of one another's children, or persons who have the care of an exchange student in their own home.

(4) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day.

(5) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school age children and do not accept custody of children. School age children are those who are six years of age or older or otherwise eligible for admission to the first grade of a public school system.

(6) Seasonal camps of three months or less duration engaged primarily in recreational or educational activities.

(7) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW. A nonhospital child care function performed by a hospital, such as placement of a child for adoption or maintenance of a day care center for the care of children of hospital staff, is subject to licensing.

(8) Nursing homes licensed under chapter 18.51 RCW.

(9) Boarding homes licensed under chapter 18.20 RCW for the care of the aged and other infirm persons.

(10) Licensed physicians and lawyers involved in child care or placement activities as part of their professional practice. This exemption applies to the personal activities of the licensed physician or lawyer and not to corporations and individuals who may be associated with a physician or lawyer in such activities.

(11) Facilities providing care to children for periods of less than 24 hours whose parents remain on the premises to participate in activities other than employment. Premises means the buildings in which the child care facility is located and the adjoining grounds over which the operator of the facility has direct control.

(12) Facilities approved and certified under RCW 72.33.810 for the receipt of funds from the department for the care and training of handicapped persons.

(13) Any agency having been in operation in this state ten years prior to June 8, 1967 and not seeking or accepting monies or assistance from any state or federal agency, and is supported in part by an endowment or trust funds. An agency claiming exemption under this provision will be required to submit evidence as to the existence of each of the three conditions specified by this provision.

(14) Persons caring for a child in the child's own home whether related to the child or not.

(15) Persons who have a child in their home for purposes of adoption, provided such child was placed in such home by a licensed child placing agency or authorized public agency, or provided a court order for adoption has been entered or a petition for adoption is on file awaiting court action.

(16) An agency operated by any unit of local, state or federal government.

(17) An agency located on a federal military reservation, except upon the invitation of the military authorities. [Order 1010, § 388-75-018, filed 2/19/75; Order 985, § 388-75-018, filed 11/29/74; Order 936, § 388-75-018, filed 5/23/74.]

**WAC 388-75-021 Certification of exempt program or facility.** (1) A program or facility legally exempt from licensing may not be licensed. However, at its request, such a program or facility may be certified or approved by the department as meeting licensing and other pertinent requirements, if investigation proves such to be the case, to enable it to be eligible for the receipt of funds or for other legitimate purposes.

(2) A program or facility may not receive funds from the department unless it is licensed, approved or certified. Licensing per se does not obligate the department to make referrals or payment to a program or facility; additional requirements may be imposed for such purposes. [Order 936, § 388-75-021, filed 5/23/74.]

**WAC 388-75-024 Certification of drug treatment center.** An agency which deals primarily or substantially with users of drugs or focuses on the treatment of such persons shall apply to the department for certification as an approved drug treatment center as provided by chapter 69.54 RCW. A drug treatment center is any organization, institution, or corporation, public or private,

engaged in the care, treatment or rehabilitation of persons using narcotic drugs as defined in chapter 69.33 RCW or dangerous drugs as defined in chapter 69.40 RCW. [Order 936, § 388-75-024, filed 5/23/74.]

**WAC 388-75-027 Application for license.** Except for foster family homes and family day care homes under the supervision of a licensed child placing agency, an agency shall apply for a license to the department on forms provided by the department. Except for foster family homes and family day care homes, the application shall include a written description of the agency's program and facilities, a staffing plan, and a financial plan showing estimated costs of operation and providing evidence of sufficient funds to carry out the proposed program. The application shall clearly designate the person or group legally responsible for the operation of the agency. The department shall either grant or deny a license within 90 days of receipt of an application. [Order 936, § 388-75-027, filed 5/23/74.]

**WAC 388-75-030 Licenses for homes under supervision of licensed agency.** Foster family homes and family day care homes which will care only for children placed by a licensed child placing agency shall apply for a license to such an agency. The department will issue licenses to such homes upon certification to the department by the licensed agency that such homes meet the requirements adopted by the department for the licensing of foster family homes or family day care homes. Such licenses are valid only as long as the homes remain under the supervision of the certifying licensed agency. [Order 936, § 388-75-030, filed 5/23/74.]

**WAC 388-75-031 Licensure of staff members.** Child care agencies shall not certify members of their staff for licensure as family foster homes and the department will not make foster care payments for children placed with them by their employing agency. This restriction does not preclude the employment and licensing of a staff member whose full time employment for an agency is that of a foster parent, nor does it prohibit an agency's staff from serving as foster parents for another agency. [Order 1146, § 388-75-031, filed 8/26/76.]

**WAC 388-75-033 Fire marshal's approval.** Except for child placing agencies, foster family homes and family day care homes, prior to issuing a full license the department shall have on file a certificate of compliance issued by the state fire marshal indicating that the agency has met fire protection requirements. [Order 936, § 388-75-033, filed 5/23/74.]

**WAC 388-75-036 Health approval.** Prior to issuing a full license, the department shall have on file a certificate of compliance issued by the department or its designee indicating that the agency has met requirements adopted to promote the health of persons in the agency's care. [Order 936, § 388-75-036, filed 5/23/74.]

**WAC 388-75-039 Local ordinances—Effect of.** Licenses are issued or denied on the basis of applicants' compliance with the department's minimum licensing requirements. The enforcement of local ordinances such as zoning regulations and local building codes is the responsibility of appropriate local officials. The department may inform local officials of the receipt of applications for license. [Order 936, § 388-75-039, filed 5/23/74.]

**WAC 388-75-042 Character references.** The department may require references for applicants and their staff in evaluation of their character and suitability to perform the functions for which license is sought and may make such corollary investigations as it may deem necessary. [Order 936, § 388-75-042, filed 5/23/74.]

**WAC 388-75-045 Duration and provisions of license.** A full license is issued for a period of two years. A license is granted to a specific person or persons or organization and for a specific location only and is not transferrable. The license shall state the number, ages, and sex of persons for which a facility is authorized to care and the type of care for which the agency is licensed. Any material change in circumstances which might constitute grounds for reclassification of license as to category, or otherwise affect eligibility for or need for amendment of license, shall be reported to the department immediately for appropriate action. [Order 936, § 388-75-045, filed 5/23/74.]

**WAC 388-75-048 Renewal of license.** Requests for renewal of license shall be filed with the department 90 days prior to the expiration date of a current license. If the department fails to act by the expiration date, the license shall continue in effect until such time as the department shall act provided that an application for renewal is on file with the department prior to such expiration. [Order 936, § 388-75-048, filed 5/23/74.]

**WAC 388-75-051 Provisional license.** A provisional license may be issued at the discretion of the department for a period not to exceed six months, and may be renewed for additional periods not to exceed a total of two years, to allow an agency reasonable time to become eligible for full license, except that a provisional license shall not be granted to any foster-family home or family day care home. Provisional licenses shall be issued only upon the basis of a suitable written plan for full compliance within a reasonable time period as approved by the department. [Order 936, § 388-75-051, filed 5/23/74.]

**WAC 388-75-054 Denial, revocation, suspension of license.** (1) The department may deny, suspend, revoke or not renew a license of an agency which fails, refuses or ceases to comply with the provision of chapter 74.15 RCW and requirements promulgated pursuant thereto. Whenever the department has reasonable grounds for such action, it shall inform the agency in writing by certified mail of its intent and the grounds on which such action is based. If the agency makes no written request by certified mail to the secretary of the department for a

hearing within 30 days of the receipt of such notice, the license shall be deemed to be denied, suspended, revoked or not renewed.

(2) If the department finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its notice, summary suspension of a license may be ordered pending proceedings for revocation or other action. [Order 936, § 388-75-054, filed 5/23/74.]

**WAC 388-75-057 Administrative hearing.** Not less than 35 days from the receipt of a timely request for a hearing, the secretary shall fix a date upon which the matter may be heard. Except as specifically provided by RCW 74.15.130, hearings shall be conducted in accordance with Title 34 RCW (Administrative Procedure Act). Within 30 days after the date of the hearing, the secretary shall notify the appellant of his decision. [Order 936, § 388-75-057, filed 5/23/74.]

**WAC 388-75-060 Operation following suspension or revocation of license.** Except for agencies whose license has been summarily suspended, or which do not hold a valid license, an agency may continue operation for not more than 30 days following receipt of notice of the department's intent to deny, suspend, revoke or not renew a license, or if a timely request for a hearing is filed, pending the receipt of the secretary's decision resulting from the hearing. [Order 936, § 388-75-060, filed 5/23/74.]

**WAC 388-75-063 Periodic review of licensing requirements.** In consultation with the family and children's services/day care advisory committee, and with the advice and assistance of representatives of the various types of agencies to be licensed, at least every two years the department shall review minimum licensing requirements and adopt appropriate changes and/or establish different requirements for separate categories of agencies as the advisory committee may recommend. [Order 936, § 388-75-063, filed 5/23/74.]

**WAC 388-75-066 Review by advisory committee.** At the request of any agency, the department's family and children's services/day care advisory committee shall review minimum requirements and/or a proposed application for license and shall make recommendations to the department in respect thereto. [Order 936, § 388-75-066, filed 5/23/74.]

**WAC 388-75-069 Periodic visits and consultation.** The department and the state fire marshal, or their designees, shall visit agencies periodically and agencies shall accord them the right of entrance and the privilege of access to and inspection of records for the purpose of determining compliance with the provisions of chapter 74.15 RCW and RCW 74.13.031 and requirements adopted thereunder. The department shall consult with public and private agencies to help them improve their methods and facilities for the care of children, expectant mothers and adult retarded persons. [Order 936, § 388-75-069, filed 5/23/74.]

**WAC 388-75-072 Reporting of injury, death, epidemic, or child abuse.** Licensee shall report to the persons indicated the following events as soon as practical after their occurrence:

(1) To the licensing authority (supervising agency in the case of foster family homes and family day care homes):

(a) Serious injury or death of a child under agency's care.

(b) Evidence of child abuse or neglect and child abandonment.

(2) To the local public health officer: any occurrence of food poisoning or communicable disease as required by the state board of health. [Order 936, § 388-75-072, filed 5/23/74.]

**WAC 388-75-075 Records and reports.** An agency shall keep such records and make such reports as are necessary for proper administration and as the department may prescribe. The department may audit the books of an agency receiving public funds. Provision shall be made for the safe storage of confidential records of persons in care. [Order 936, § 388-75-075, filed 5/23/74.]

**WAC 388-75-078 Discrimination prohibited.** (1) An agency shall not discriminate in the provision of services or in employment practices because of race, creed, color, national origin, sex or age.

(2) Sectarian agencies established primarily to serve members of a particular religious denomination shall not be deemed to practice discrimination unless they specifically exclude from the benefits of their program the members of specified other denominations, or if they discriminate based on race, color, national origin, sex, or age.

(3) Deleted. [Order 985, § 388-75-078, filed 11/29/74; Order 936, § 388-75-078, filed 5/23/74.]

**WAC 388-75-081 Agency conducted by religious organization.** The rules adopted herein shall not be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents of any agency conducted for or by members of a recognized religious sect, denomination or organization which in accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion, nor shall the existence of any of the above conditions militate against the licensing of such an agency. [Order 936, § 388-75-081, filed 5/23/74.]

**WAC 388-75-084 Transportation.** When an agency provides transportation for children:

(1) The vehicle for transporting children shall be in safe operating condition and the driver shall have a current driver's license. Vehicles transporting 11 or more persons shall meet the requirements of the state department of motor vehicles for private carrier buses.

(2) There shall be at least 1 adult supervisor other than the driver in a vehicle when there are more than 5 preschool aged children in the vehicle.

(3) Each child must remain seated while the vehicle is in motion. Seat belts and/or other appropriate safety devices shall be provided.

(4) Children shall be loaded and unloaded at the curb from the curb side of the vehicle or in a protected parking area or walkway.

(5) Children shall be protected by liability and medical insurance.

(6) A child shall not be taken on field trips unless his parent or guardian has signed a permission form. [Order 936, § 388-75-084, filed 5/23/74.]

**WAC 388-75-087 Care and administration of medications.** (1) All medications and other drugs shall be stored in orderly fashion in a locked cabinet. The use of the key for access to the cabinet, and the administration of medications shall be under the supervision and responsibility of agency's director, or in the foster family home or family day care home, of the foster parent or family day care parent. Separate compartments shall be provided and used for storage of drugs for internal and external use. All medications classified as controlled substances shall be kept in a separate, secure, locked storage unit. Medications shall be administered only as authorized by a physician. "As needed" medications shall be cleared prior to each administration with the prescribing physician or a registered nurse who is familiar with the child receiving the medication.

(2) If a prescription medication, the label must include prescription number, patient's name, physician's name, date of issue, and initials of dispensing pharmacist, quantity, strength, and storage conditions when appropriate.

(3) Medications must remain in their original container.

(4) Medications issued on an individual prescription basis shall not be retained in the agency after discontinuing the use of the drug or after the child's discharge from the home. Discarded drugs shall be poured into the sewage system or burned. They shall not be discarded with garbage or refuse.

(5) If medications classified as controlled substances are kept in the facility, there shall be a bound book with numbered pages in which is recorded: the name of the patient, the date, time, kind, dosage, and method of administration; the name of physician who prescribed the medication; and the name of the person who administered it.

(6) All narcotics which are left over after the patient's discharge shall be returned in person or by railway express to the Drug Enforcement Administration, Room 200, United States Court House, Seattle, Washington, 98119. [Order 936, § 388-75-087, filed 5/23/74.]

**WAC 388-75-090 Personnel policies.** All agencies employing five or more persons shall have written personnel policies covering qualifications of staff, job descriptions and conditions of employment. [Order 936, § 388-75-090, filed 5/23/74.]

**WAC 388-75-093 Special requirements regarding American Indians.** (1) Implementation of the licensing

statute will recognize the unique tribal, cultural and religious sovereignty of Indian nations, tribes and communities. The licensing of a child care agency on sovereign Indian soil shall in no way abridge the sovereignty of an Indian nation nor shall compliance with these rules and regulations be deemed to be a relinquishment of sovereign authority.

(2) For the purposes of these rules, the term "Indian" is defined as:

(a) Any person who is enrolled in a federally recognized Indian tribe or one of whose parents or grandparents is so enrolled.

(b) Any person determined to be an Indian by the secretary of the interior.

(c) An Eskimo, Aleut or other Alaskan native.

(d) Any person considered to be Indian by himself or herself and by an Indian community.

(3) Boards and advisory committees of agencies serving Indian children shall include Indian members in the proportion that the number of Indian children served bears to the total number of children served.

(4) Agencies serving a substantial number of Indian children shall develop social service resources and staff training programs designed to meet the special needs of such children through coordination with tribal, Indian Health Service and Bureau of Indian Affairs social service staff and appropriate urban Indian and Alaskan native consultants.

(5) In addition to reports required by WAC 388-75-072, an agency shall report to a child's tribal council the serious injury or death or abandonment of an enrolled Indian child.

(6) In planning foster care and adoptive placements for Indian children, demonstrable consideration shall be given to tribal membership, tribal culture and Indian religions, unless the child's record substantiates that such considerations are contrary to the wishes of the child and/or his parent(s).

(7) When foster care or adoptive placement of a non-enrolled Indian child is planned, the Portland area office of the Bureau of Indian Affairs' form "Family Ancestry Chart", or appropriate equivalent, shall be complied, except for such children for whom it appears that foster care will last, or does last, less than 30 days. Appropriate steps shall be taken to enroll eligible children if not contrary to the wishes of the child and/or his parent(s).

(8) Unless contrary to the wishes of a child and/or his parent(s), agencies serving Indian children shall make diligent and demonstrable efforts to recruit facilities and/or homes particularly capable of meeting the special needs of such children. Indian children shall be placed preferably in Indian foster homes or in non-Indian foster homes specifically recruited and trained to meet the special needs of Indian foster children.

(9) The written policies and procedures statement on legal practices (WAC 388-75-124) of child placing agencies serving Indian children shall reflect the rights of Indian children and families based upon their unique social-legal status guaranteed by treaty and federal law.

(10) If not contrary to the wishes of a child and/or his parent(s), in the adoptive placement of Indian children adoptive homes having the following characteristics shall be given preference in the following order:

(a) An Indian family of the same tribe as the child within 30 days from the time the child is determined to be legally and otherwise ready for adoptive planning.

(b) Within an additional 30 days, a Washington Indian family; considering first a family of similar cultural background, for example, Eastern or Western Washington.

(c) Within an additional 30 days, an Indian family from elsewhere in the United States or Canada, through the Adoption Resource Exchange of North America, or other recognized adoption agency outside of Washington State. Attention shall be given to matching the child to an Indian family whose culture is similar to that of his natural parents, for example, Coastal, Plateau, Plains, Southwest, Woodland, etc.

(d) Any other family who can provide a suitable home to an Indian child, as well as instill pride and understanding in the child's tribal and cultural heritage. Therefore, attention shall be directed to matching the child to a family residing close to an Indian population similar to the child's background.

(11) Adherence to the foregoing rules and regulations regarding the American Indian shall be monitored periodically by the department and in doing so the department shall consult with and/or make use of the Indian desk of the department. [Order 985, § 388-75-093, filed 11/29/74.]

**WAC 388-75-103 Child placing agency.** The rules in WAC 388-75-106 through 388-75-130 apply exclusively to the licensing of a child placing agency as defined in WAC 388-75-015. In addition, WAC 388-75-003 through 388-75-090 are applicable to the extent pertinent to a child placing agency. [Order 936, § 388-75-103, filed 5/23/74.]

**WAC 388-75-106 Child placing agency—Governing or advisory board.** A child placing agency shall be conducted under the auspices of a properly constituted governing board or an advisory board which shall be broadly representative of the community and groups served by the agency. Such boards shall be responsible for, or advise licensee on, program development and evaluation, policy formulation, staffing and general operation of the agency's program and for assuring adequate financial support and fiscal responsibility. [Order 936, § 388-75-106, filed 5/23/74.]

**WAC 388-75-109 Child placing agency—Out-of-state agencies.** Child placing agencies whose principal offices are not located in the state of Washington and who do not maintain offices in the state of Washington licensed in accord with these rules may arrange for the placement of children in the state of Washington under the following conditions:

(1) Such agency must be licensed, certified or otherwise appropriately approved for child placing functions in its home state;

(2) Such agency shall comply with the provisions of the interstate compact on the placement of children and shall enter into written agreements with licensed or otherwise legally operating child placing agencies in the state of Washington which shall be responsible for conducting a study of the home in which the child is placed, related casework and for the proper supervision of the placement until the child is legally adopted or attains the age of majority; and

(3) Such agency shall furnish the department copies of its agreements with Washington state agencies, evidence that it is a duly authorized child placing agency in its home state, and certify that it will assume financial responsibility for any child placed in the state of Washington until the child is adopted or otherwise is financially independent. [Order 936, § 388-75-109, filed 5/23/74.]

**WAC 388-75-112 Child placing agency—Personnel.** (1) The agency shall provide staff in accordance with the requirements in this section.

(2) Executive. The agency shall have an executive with training or responsible experience in child welfare and demonstrated executive ability. He shall understand the principles and problems of child care and placement.

(3) Social work staff. There shall be a casework supervisor who has a master's degree from a recognized school of social work or equivalent academic training. Such person shall have demonstrated skills in foster care practices and ability to teach and transmit knowledge which will insure staff development and efficient administration of the casework program. In a small agency, this person may also be the executive and may also carry a child care caseload.

Social work services shall be provided normally by persons who have had not less than one year of successful graduate training in a recognized school of social work or closely allied discipline. Social service staff without such training shall be under close professional supervision.

The number of social work staff shall be sufficient to carry out generally recognized standards for casework practice. In no instance shall there be less than one caseworker for every 40 children under care.

(4) Consultants. A child placing agency shall provide medical, psychological, psychiatric and legal services as may be necessary to meet adequately the needs of the children served, and shall arrange for consultative services from clergymen, geneticists and social anthropologists as appropriate.

(5) Office staff. The agency shall provide such clerical, stenographic and bookkeeping staff as is necessary to maintain proper records and carry out the agency's program. [Order 936, § 388-75-112, filed 5/23/74.]

**WAC 388-75-115 Child placing agency—Office space.** The agency shall be housed in offices adequately equipped to carry out its program and which provide privacy for interviews with parents and children. [Order 936, § 388-75-115, filed 5/23/74.]

**WAC 388-75-118 Child placing agency—Records.** Social casework staff shall be responsible for the development and maintenance of an individual record for each child, expectant mother, foster home or adoptive home, in accordance with accepted social work practice and the provisions of RCW 26.36.020 and RCW 26.36.030. All records shall be treated confidentially and used only in the best interest of the child, the expectant mother, their natural families and adoptive and foster parents. [Order 936, § 388-75-118, filed 5/23/74.]

**WAC 388-75-121 Child placing agency—Medical care.** (1) The agency shall provide diagnostic, preventive and remedial medical care by a licensed physician or qualified clinic. With the advice and approval of a medical advisory group (committee or board), the agency shall establish written policies and procedures for providing medical services to children and expectant mothers in the agency's care.

(2) It shall be the responsibility of the placing agency to provide to the foster parents a health history, as complete as possible, for each child upon placement. This history shall include an immunization history, allergies, previous illnesses, and conditions of the child which may adversely affect his health. If the child has not had a physical examination by a physician within the preceding year, the placing agency shall, with the permission of parent, guardian, or court authorization, arrange for such an examination or medical assessment prior to or within a reasonable time after placement.

(3) Prior to placement or within a reasonable time thereafter, it shall be the responsibility of the placing agency, with permission of parent or guardian, except in cases where the parent or guardian expresses religious, intellectual or philosophical objections by signing a statement to this effect, to have the immunizations of each child completed and brought up to date in accordance with current standards set by the American Academy of Pediatrics. Children shall be excused from this immunization requirement on the presentation of a physician's statement that a valid medical reason exists to contraindicate immunization. [Order 936, § 388-75-121, filed 5/23/74.]

**WAC 388-75-124 Child placing agency—Legal consultation.** With the advice and approval of a licensed lawyer, the agency shall establish written policies and procedures for the protection of the child's legal rights, the legal aspects of foster care and adoptive placement, and relationships with the courts. [Order 936, § 388-75-124, filed 5/23/74.]

**WAC 388-75-127 Child placing agency—Foster care placements.** (1) The agency shall be guided by recognized principles of professional counseling and foster family care in its work with expectant mothers, children and their families. It shall, in planning for children, give due consideration to:

(a) A child's basic right to his own home and family,

(b) The importance of skillful professional service to parents to help them meet the child's needs in his own home whenever possible,

(c) The child's individual needs, his ethnic background, religious background, his family situation and the wishes and participation of his parent, and

(d) The recruitment and selection of a foster home that will provide for maximum development of the child's capacities and meet the child's individual needs.

(2) A written social study of each child and expectant mother shall serve as the basis for acceptance for foster care and related services.

(3) Every acceptance for care shall be based on well-planned, individual preparation of the child and his family and the expectant mother.

(4) Except in an emergency, a child shall be placed in foster care only with the written consent of his parents or under order of a court of competent jurisdiction. Such consent or order shall include authorization for medical care and emergency surgery.

(5) All foster homes, group homes, and institutions used by child placing agencies shall comply with licensing requirements of the department for such facilities.

(6) The frequency of the caseworker's contacts with an expectant mother or child and his family shall be determined by a casework plan reflecting their needs. Each active foster home shall be visited not less than once every 90 days unless contraindicated by reasons specified in the agency's record.

(7) The preparation for discharge from placement shall follow the same basic steps as preparation for placement, but a child shall be released only to parents, adoptive parents, guardians or other persons or agencies holding legal custody, or to a court of competent jurisdiction. Needed followup after discharge shall be provided. [Order 936, § 388-75-127, filed 5/23/74.]

**WAC 388-75-130 Child placing agency—Adoptive placements.** (1) The agency shall protect the child from unnecessary separation from his natural parents when they are capable of successfully fulfilling their parental role or can be helped to do so. Adoptive placement shall be made only when the child is freed for adoption by action of a court of competent jurisdiction giving the agency authority to place such child for adoption and to consent to his adoption as provided by RCW 26.36.010.

(2) The agency shall evaluate adoptive applicants in relation to their capacity and readiness for parenthood, their emotional and physical health and ability to shelter, feed, clothe, and educate an adopted child. The agency shall protect the child from placement which would be detrimental to his well-being and from interference of natural parents after placement. Preplacement reports shall be filed with the court as required by RCW 26.32.200 through RCW 26.32.270.

(3) The agency shall make reasonable efforts to place a child in an adoptive home of the ethnic and religious background preferred by the child or his parents; provided that if such a home is not available within a reasonable period of time after the child is ready for

adoptive placement, the child shall be placed in any other available and otherwise suitable home; and provided further that when a child is seven years of age or older and has been living in a particular religious or ethnic environment which has positive meaning to him or her, the agency shall ordinarily continue to seek an adoptive home of that religious or ethnic background for a period not to exceed 6 months prior to placement in an otherwise suitable home.

(4) The agency shall transmit to the adoptive parents at time of placement a medical report containing all reasonably available information concerning the child to be placed, especially that which would indicate the child is mentally deficient or physically impaired by reason of heredity, process of birth, disease or any other cause as required by RCW 26.36.050. The agency shall provide continued social service to assist the child and the family during the period of adjustment, and shall prepare information necessary for reporting to the court as next friend of the child at the time the adoption petition is heard.

(5) The agency shall be responsible for receiving and providing temporary care for children in need of adoptive placement and, when authorized by a court of competent jurisdiction, for placing them for adoption and giving consent to their adoption. [Order 936, § 388-75-130, filed 5/23/74.]

**WAC 388-75-153 Foster family home.** The rules in WAC 388-75-156 through 388-75-177 apply exclusively to the licensing of a family foster home as defined in WAC 388-75-015(6)(b). In addition, WAC 388-75-003 through 388-75-090 are applicable to the extent pertinent to a family foster home. [Order 936, § 388-75-153, filed 5/23/74.]

**WAC 388-75-156 Foster family home—Capacity—Limitations on ages and numbers.** (1) Within the limitations of the following provisions, the maximum number of children for whom a foster home will be licensed is dependent upon the department's evaluation of the physical accommodations of the home, the number and capabilities of the members of the household, and the ages and characteristics of the children to be served.

(2) No home shall be licensed for more than six children, such number to be reduced by the number of licensee's own children under the age of 18 residing in the home, except that no home which otherwise meets licensing requirements shall be denied a license for the care of at least one child or single family of children. Regulations of the state fire marshal and the uniform building code require the application of group care fire safety standards to facilities caring for more than five foster children.

(3) No home shall be licensed for more than two children under two years of age, such number to be reduced by the number of licensee's own children of such age.

(4) No home shall be licensed for the care of more than two children suffering mental or physical handicaps of such severity as to require nursing care unless the licensee is qualified by training and/or experience to provide proper care and the child's treatment is under the

supervision of a physician. Need for nursing care shall be established following criteria for identifying the child who needs nursing care. The care of three or more such persons requires a nursing home license under the provisions of chapter 18.51 RCW. [Order 936, § 388-75-156, filed 5/23/74.]

**WAC 388-75-157 Foster family home—Limitation on licensing.** The local office shall not license for foster family care the home of an employee of the department of social and health services. The local office shall not place children in the home of an employee licensed on the recommendation of a voluntary agency. The department, however, may make payment for a child placed and supervised by a voluntary agency in the home of an employee which has been licensed for foster family care on the recommendation of that agency. [Order 1018, § 388-75-157, filed 4/23/75.]

**WAC 388-75-159 Foster family home—Characteristics of family.** (1) There shall be evidence that the physical and mental health and character of all members of the household are consistent with the provision of good foster care. All persons caring for children or expectant mothers shall be emotionally stable and shall have the ability and personality suited to meeting the physical, mental, emotional and social needs of the persons in care.

(2) Persons giving care to children shall not have been convicted of any offense against children, in particular, child abuse or neglect or sexual abuse.

(3) For both initial license and renewal of license, the applicant shall review with the supervising agency the status of the health and physical condition of the members of his household. If question arises concerning a condition which would seem to adversely affect child care, the applicant shall be required to submit a physician's statement in evaluation of such condition.

(4) Each person working with children shall have tuberculosis screening upon beginning such work or within the immediately prior two-year period and every two years thereafter. Persons whose tuberculin skin tests have previously been positive or who are over 50 years of age shall have such tuberculosis screening in the form of a chest X-ray. Persons under 50 years of age who have no knowledge of previous positive tuberculin skin test shall have an intermediate purified protein derivative tuberculin skin test (Mantoux method) or a multiple puncture tuberculin skin test (by techniques such as a Tine test or Stern test) which shall, if positive, be confirmed by an intermediate purified protein derivative tuberculin test (Mantoux). If a Mantoux skin test is positive (as indicated by 10 millimeters of induration), an immediate chest X-ray and subsequent biennial chest films are required. Persons having a history of previous tuberculosis infection shall present a statement from a physician that their tuberculosis infection is inactive and noncommunicable, and they shall have annual chest X-rays. Proof of current negative skin test or X-ray interpreted as negative for tuberculosis shall be on file with the supervising agency.

(5) Foster parents shall be persons who



(a) Can provide a stable living situation and are capable of meeting the individual needs of the persons accepted for care,

(b) Care about others and are responsive to them,

(c) Can enjoy being parents and have the capacity to be giving without expectation of immediate return,

(d) Have the ability to accept the child's relationships with his natural parents,

(e) Have stable interpersonal relationships free of chronic conflict both within and without the family group.

(6) If both foster parents in a two-parent foster home, or the single foster parent in a one-parent foster home, are or is employed outside the home, the supervising agency shall be notified. The foster family shall have sufficient regular income to maintain their own family without the board payments made for the persons in care. [Order 936, § 388-75-159, filed 5/23/74.]

**WAC 388-75-162 Foster family home—Care of child and expectant mother.** (1) Foster parents shall at all times provide or arrange for such care and supervision as the child's age and condition may require.

(2) Foster parents shall provide opportunities for recreation within the family group and encourage participation in community activities in accord with the child's or expectant mother's capacity for such experience.

(3) Foster parents shall arrange for the child or expectant mother to receive religious training in his or her own faith.

(4) Clothing of persons under care shall be kept clean and in good condition.

(5) Foster parents shall supply a wholesome general diet of sufficient quantity and quality to meet the nutritional needs of the persons under care and such special diet or health program as may be directed by such persons' physician. The use of raw milk is prohibited.

(6) Disciplinary policies shall be stated in writing. Discipline shall be the responsibility of the foster parent(s) and shall not be prescribed or administered by children. Discipline shall be based on an understanding of the individual child's needs and stage of development and shall be designed to help the child develop inner control, acceptable behavior and respect for the rights of others.

(a) Discipline shall be fair, reasonable, consistent and related to the child's behavior. Cruel and unusual discipline and discipline hazardous to health, and frightening or humiliating discipline shall not be administered.

(7) If the placement includes an employment arrangement, specific agreements as to duties and compensation shall be reached between the supervising agency, if any, the person under care, and the foster parents. Compensation shall be paid at regular intervals. Work duties shall be in keeping with the person's capacity and other needs.

(a) The expectant mother shall not be assigned heavy work or duties contrary to the recommendations of her physician or supervising agency, if any. There shall be some easing of the work schedule during the last month of pregnancy. [Order 936, § 388-75-162, filed 5/23/74.]

**WAC 388-75-165 Foster family home—Register.** Licensee shall maintain a register containing the following information about each person accepted for care:

(1) Name, birthdate, and dates of admission and discharge;

(2) Names, addresses, and telephone numbers (home and business) of father and mother or guardian and/or placing agency, if any, physician, and other persons to be notified in case of an emergency;

(3) Names, addresses, and telephone numbers of persons authorized to take child from home;

(4) Date and place of expectant mother's delivery. [Order 936, § 388-75-165, filed 5/23/74.]

**WAC 388-75-168 Foster family home—First aid—Health care.** (1) Licensee shall have a written plan of action to be taken in event of medical emergencies and arrangements for the provision of needed medical care.

(2) In all cases where preschool children are cared for, first-aid supplies shall include syrup of ipecac. Medications shall be administered only as authorized by a physician and as approved by the child's parent, guardian, or supervising agency. [Order 936, § 388-75-168, filed 5/23/74.]

**WAC 388-75-171 Foster family home—Responsibility of placing agency—Absence from home.** (1) The foster family shall respect the placing agency's responsibility for the planning for the persons under care. Foster parents shall not place a person in another home temporarily or otherwise without the consent of the placing agency, if any, or of his parents or guardian.

(2) If it is necessary for the foster parents to be absent overnight, the placing agency, if any, if not, the child's parents or guardian shall be notified and suitable arrangements made for care. If it is not possible to contact the supervising agency, if any, or parent or guardian, a competent adult shall be left in charge. Permission for foster children to travel on extended trips with foster parents shall be obtained from the placing agency, if any, or from parents or guardians, and in the case of court wards, from the juvenile court. [Order 936, § 388-75-171, filed 5/23/74.]

**WAC 388-75-174 Foster family home—Physical aspects of home.** (1) The home shall be in a neighborhood conducive to the general welfare of the persons receiving care. The dwelling and furnishings shall be clean, comfortable, and in good repair. Home and grounds shall be reasonably free from hazards.

(2) Ventilation, light and heat to insure health and comfort shall be provided and there shall be facilities for sanitary storage, preparation and service of food.

(3) There shall be adequate play space and equipment both indoors and out.

(4) There shall be adequate space to accommodate all members of the household, including comfortable bedrooms with outside exposure and suitable bathing and toilet facilities. Each person under care shall be provided with a separate comfortable bed and appropriate bedding. No child over the age of one year shall share a

bedroom with foster parents. Boys and girls beyond the age of five shall not sleep in the same room. Hallways, kitchens, living room, dining rooms, and unfinished basements shall not be used as sleeping quarters. An adult must be on the same floor or within easy hearing distance and accessibility to where children under six years of age are sleeping. Exceptions to these rules may be made taking into consideration normal living situations familiar to the child, providing there is sufficient space and arrangements by screens or other devices for separate areas for sleeping, dressing, bathing and toileting that will ensure privacy for older children of the opposite sex, and provided that doorways and access thereto are not blocked.

(5) Suitable storage space shall be provided for the personal belongings and clothing of each occupant. Individual towels and toilet articles shall be provided.

(6) Drinking water obtained from a private source must be approved by the county health department or other authorized agency. [Order 936, § 388-75-174, filed 5/23/74.]

**WAC 388-75-177 Foster family home—Fire safety.** (1) Every room used for the care of children or expectant mothers, unless provided with two separate doors or one door leading directly to the outside, shall have a window of sufficient size and free of obstructions to be readily available for emergency escape or rescue.

(2) Every occupied area shall have access to at least one exit which does not pass through rooms or spaces subject to being locked or blocked from the opposite side.

(3) No space shall be used for residential purposes which is accessible only by ladder, folding stairs or a trap door.

(4) Every bathroom door lock shall be designed to permit the opening of the locked door from the outside in an emergency.

(5) Every closet door latch shall be such that the door can be opened from the inside.

(6) No stove or heater shall be so located as to block escape in case of malfunctioning and ensuing fire.

(7) Flammable, combustible or poisonous materials shall be stored away from exits and in areas not accessible to children.

(8) Open flame devices, heating and cooking appliances, and other similar products capable of igniting clothing shall not be left on unattended or used in a manner which could result in accidental ignition of children's clothing.

(9) All residents shall be instructed in emergency evacuation procedures and drills conducted at regular intervals to test and practice the procedures.

(10) Means shall be provided to extinguish small fires, especially in children's clothing.

(11) If question arises concerning fire danger, the local fire protection authority shall be consulted. The local fire department should be invited to visit the home at frequent intervals to become knowledgeable of the facility and to plan rescue and fire-fighting procedures. [Order 936, § 388-75-177, filed 5/23/74.]

**WAC 388-75-203 Family day care home.** The rules in WAC 388-75-203 through 388-75-230 apply exclusively to the licensing of a family day care home as defined in WAC 388-75-015(6)(c). In addition, WAC 388-75-003 through 388-75-090 are applicable to the extent pertinent to a family day care home. [Order 936, § 388-75-203, filed 5/23/74.]

**WAC 388-75-206 Family day care home—Capacity—Limitations on ages and numbers.** (1) Within the limitations of the following provisions, the maximum number of children for whom a family day care home will be licensed to care is dependent upon the department's evaluation of the physical accommodations of the home, the number and capabilities of the licensee and other persons supervising or interacting with the children, and the ages and characteristics of the children to be served, except that no home which otherwise meets licensing requirements shall be denied a license for the care of at least one child or a single family of children.

(2) No home shall be licensed for more than six children. During evening and night-time hours and during the summer months or other extended school vacation periods, such number shall be reduced by the number of licensee's own children and foster children under 12 years of age residing in the home.

(a) During the school year, such number shall be reduced by the number of licensee's own children and foster children of preschool age residing in the home.

(b) The care of additional children for not more than three hours per child may be disregarded in the count of children for which the home is licensed, provided that the total number of children under 12 years of age on the premises at any given time does not exceed ten, and provided that when more than eight children are present or when any of the children are under 2-1/2 years of age, the day care parent is assisted by a competent person who is at least 16 years of age.

(3) Regulations of the state fire marshal and the uniform building code require the application of group care fire safety standards to facilities caring for more than six day care children.

(4) No home shall care for more than two children under two years of age, including licensee's own and foster children under two years of age. [Order 936, § 388-75-206, filed 5/23/74.]

**WAC 388-75-209 Family day care home—Characteristics of family.** (1) Day care parents shall be of good character; shall have a genuine liking of and respect for children and adults and an ability to form warm relationships with children; shall have an ability to deal with practical problems of daily living and to handle routine emergencies and shall have general good physical and mental health.

(2) Each person working with children shall have tuberculosis screening upon beginning such work or within the immediately prior two-year period and every two years thereafter. Persons whose tuberculin skin tests have previously been positive or who are over 50 years of age shall have such tuberculosis screening in the form of a chest X-ray. Persons under 50 years of age who have

no knowledge of previous positive tuberculin skin test shall have an intermediate purified protein derivative tuberculin skin test (Mantoux method) or a multiple puncture tuberculin skin test (by techniques such as a Tine test or Stern test) which shall, if positive, be confirmed by an intermediate purified protein derivative tuberculin test (Mantoux). If a Mantoux skin test is positive (as indicated by 10 millimeters of induration), an immediate chest X-ray and subsequent biennial chest films are required. Persons having a history of previous tuberculosis infection shall present a statement from a physician that their tuberculosis infection is inactive and noncommunicable, and they shall have annual chest X-rays. Proof of current negative skin test or X-ray interpreted as negative for tuberculosis shall be on file with the supervising agency.

(3) If the appearance, behavior or history of the applicant/licensee or any member of the household lead to question of physical ability, emotional stability or other condition which would adversely affect his ability to provide child care, evidence based upon appropriate professional examination shall be submitted as to his fitness to provide child care.

(4) No person under 18 years of age may be licensed to provide family day care.

(5) Persons giving care to children shall not have been convicted of any offense against children, in particular child abuse or neglect or sexual abuse. [Order 936, § 388-75-209, filed 5/23/74.]

**WAC 388-75-212 Family day care home—Program and equipment.** (1) A variety of play equipment suitable to the ages of the children and suitable for such activities as climbing, pulling, pushing and riding shall be provided. Equipment shall be constructed and maintained to minimize chances of accidents. Toys which might be ingested by infants or otherwise hazardous to young children shall be removed from areas in which they are playing.

(a) There shall be variety of suitable indoor play equipment including, but not limited to, art materials, musical materials and toys suitable for table top play.

(2) Children shall be under close supervision of an adult and within easy hearing distance at all times. If the absence of the day care parent is necessary, the children must be left in charge of a competent adult. With written parental permission, school age children may visit neighborhood friends and participate in community activities such as scouting, sports, etc.

(3) The day care parent shall develop a planned program of both group and individualized activities with the day care parent playing an active role, as well as periods of free play, designed to promote the physical, mental and social skills of the children under care. [Order 936, § 388-75-212, filed 5/23/74.]

**WAC 388-75-215 Family day care home—Nutrition.** (1) At least one balanced, nutritious meal shall be provided to each child in care in excess of five hours. If children bring sack lunches from home, licensee shall consult with parents as to their adequacy and shall supplement such lunches with milk and other foods as may

be necessary to assure child of an adequate diet. The use of raw milk is prohibited. If children are in care in excess of 10 hours, licensee shall consult with child's parents as to whether licensee shall furnish breakfast and/or an evening meal to assure that child does not go too long between regular meals. Licensee shall furnish wholesome mid-morning and mid-afternoon snacks to all children in care.

(2) All formulae for infants under three months of age shall be prescribed by the child's physician. Unless furnished by the child's parent, all formulae shall be commercially prepared and ready to feed. If a special formula which cannot be purchased ready to feed is required for an individual child and is not furnished by the child's parent, it shall be prepared under conditions approved by the health services division.

(a) Infants over six months of age who prefer to hold their own bottles may do so, providing an attendant remains within observation range.

(b) Semi-solid foods shall be provided for infants at approximately three months of age upon consultation with parent and with physician when indicated. [Order 936, § 388-75-215, filed 5/23/74.]

**WAC 388-75-218 Family day care home—Discipline.** (1) Disciplinary policies shall be stated in writing. Discipline shall be the responsibility of the day care parent(s) and shall not be prescribed or administered by children. Discipline shall be based on an understanding of the individual child's needs and stage of development and shall be designed to help the child develop inner control, acceptable behavior and respect for the rights of others.

(2) Discipline shall be fair, reasonable, consistent and related to the child's behavior. Cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline shall not be administered. [Order 936, § 388-75-218, filed 5/23/74.]

**WAC 388-75-221 Family day care home—Records.** The licensee shall maintain records containing the following information about each child accepted for care:

(1) Child's name and birthdate;

(2) Names, addresses, and telephone numbers (home and business) of father and mother or guardian, physician and other persons to be notified in case of an emergency and persons authorized to take child from the day care home;

(3) Record of child's immunizations and allergies. Parents shall be encouraged to see that each child has all immunizations recommended by the American Association of Pediatrics;

(4) Dates of child's admission, discharge and daily attendance. [Order 936, § 388-75-221, filed 5/23/74.]

**WAC 388-75-224 Family day care home—Health care.** (1) There shall be a written plan of action to be taken in event of medical emergencies and arrangements for the provision of needed medical care.

(2) In all cases where preschool children are cared for, first aid supplies shall include syrup of ipecac. Medications shall be administered only as authorized by a physician and as approved by the child's parent or guardian.

(3) Each child shall be observed for signs of illness each day as he enters. Children who are tired, ill, or upset shall be given a chance to rest in a quiet area under frequent observation. Ill children need not be discharged home as a routine policy. They may be cared for during minor illness at the discretion of the parent. In the case of more severe illness, the child shall be separated from the other children and properly attended until arrangements are made for return to his home. In case of communicable disease, utensils, toys, bedding and equipment used by a sick child shall not be used by other children until properly disinfected. Any child who requires frequent seclusion and health observation for fatigue, illness or emotional upset shall be referred through the parents for complete medical evaluation. The day care facility shall provide the family with a complete report of the observations of the child. A record of accidents and illnesses, including action taken shall be recorded by the person taking the action and shall be kept on file. Parents or guardians shall be informed of a child's injury, illness or exposure to a communicable disease on the same day such events occur. [Order 936, § 388-75-224, filed 5/23/74.]

**WAC 388-75-227 Family day care home—Physical aspects of home.** (1) The dwelling and furnishings shall be clean, and in good repair. Home and grounds shall be reasonably free from hazards.

(2) Ventilation, light and heat to insure health and comfort shall be provided, and there shall be facilities for sanitary storage, refrigeration, and preparation of food.

(3) Cleaning supplies, poisonous substances and medications shall be stored in locked cabinets or rooms or otherwise stored out of reach of children.

(4) There shall be adequate play space both indoors and out. Play areas shall be safe and fenced outdoors if conditions require.

(5) Suitable storage space shall be provided for the personal belongings and clothing of each child. Individual towels and toilet articles shall be provided.

(6) Drinking water obtained from a private source must be approved by the county health department or other authorized agency.

(7) There shall be adequate toilet and lavatory facilities. Paint used on walls, furnishings and play equipment shall be lead free.

(8) A separate, firm, clean bed, crib, cot or mat of sufficient size and clean bedding shall be provided for each child under 5 years of age who remains in care for more than six hours, and for any other child who requires a nap or rest period. Infants shall be provided cribs until, at the discretion of the parent and the day care parent, he is safe on a cot or mat. Mattresses and mats shall be covered with easily washable material.

(a) Cribs shall have secure latching devices and the bars shall be spaced so a child can see out but cannot get his head between the bars. Crib mattresses shall be

completely encased with moisture-proof material. Bedding shall include an easily laundered sheet or blanket to cover the surface of the cot or crib and a suitable covering for the child. Cribs, cots and mats shall be thoroughly washed when soiled and between use by different children. [Order 936, § 388-75-227, filed 5/23/74.]

**WAC 388-75-230 Family day care home—Fire safety.** (1) Every room occupied for day care purposes, unless provided with two separate doors or one door leading directly to the outside, shall have a window of sufficient size and free of obstructions to be readily available for emergency escape or rescue.

(2) Every occupied area shall have access to at least one exit which does not pass through rooms or spaces subject to being locked or blocked from the opposite side.

(3) No space shall be used for day care purposes which is accessible only by ladder, folding stairs or a trap door.

(4) Every bathroom door latch shall be designed to permit the opening of the locked door from the outside in an emergency.

(5) Every closet door latch shall be such that children can open the door from inside the closet.

(6) No stove or heater shall be so located as to block escape in case of malfunctioning and ensuing fire.

(7) Flammable, combustible or poisonous materials shall be stored away from exits and in areas not accessible to children.

(8) Open flame devices, heating and cooking appliances, and other similar products capable of igniting clothing shall not be left on unattended or used in a manner which could result in accidental ignition of children's clothing.

(9) All children shall be instructed in emergency evacuation procedures and drills conducted at regular intervals to test and practice the procedure.

(10) Means shall be provided to extinguish small fires, especially in children's clothing.

(11) If question arises concerning fire danger, the local fire protection authority shall be consulted. The local fire department should be invited to visit the home at frequent intervals to become knowledgeable of the facility and to plan rescue and fire-fighting procedures. [Order 936, § 388-75-230, filed 5/23/74.]

**WAC 388-75-253 Mini-day care center.** The rules in WAC 388-75-256 through 388-75-283 apply exclusively to the licensing of a mini-day care center as defined in WAC 388-75-015(5)(b). In addition, WAC 388-75-003 through 388-75-090 are applicable to the extent pertinent to a mini-day care center. [Order 936, § 388-75-253, filed 5/23/74.]

**WAC 388-75-256 Mini-day care center—Capacity—Limitations on ages and numbers.** (1) No mini-center shall be licensed for more than 12 children. During evening and night-time hours and during the

summer months or other extended school vacation period, such number shall be reduced by the number of licensee's own children and foster children under 12 years of age regular on the premises.

(2) During the school year, such number shall be reduced by the number of licensee's own children and foster children of preschool age regularly on the premises. [Order 936, § 388-75-256, filed 5/23/74.]

**WAC 388-75-259 Mini-day care center—Staffing.** (1) Whenever more than six children, any of whom are under 2-1/2 years of age are on the premises, and whenever more than ten children are on the premises, at least two staff members shall be present and there shall always be at least one staff member on duty for every five children or fraction of such number under 2-1/2 years of age.

(2) Whenever there is only one staff member present, there shall be a second staff member readily available in case of an emergency. [Order 936, § 388-75-259, filed 5/23/74.]

**WAC 388-75-262 Mini-day care center—Qualifications of licensee and staff.** (1) Licensee and staff shall be of good character; shall have a genuine liking and respect for children and adults and an ability to form warm relationships with children; shall have an ability to deal with practical problems of daily living and to handle routine emergencies; and shall have general good physical and mental health.

(2) Each person working with children shall have tuberculosis screening upon beginning such work or within the immediately prior two-year period and every two years thereafter. Persons whose tuberculin skin tests have previously been positive or who are over 50 years of age shall have such tuberculosis screening in the form of a chest X-ray. Persons under 50 years of age who have no knowledge of previous positive tuberculin skin test shall have an intermediate purified protein derivative tuberculin skin test (Mantoux method) or a multiple puncture tuberculin skin test (by techniques such as a Tine test or Stern test) which shall, if positive, be confirmed by an intermediate purified protein derivative tuberculin test (Mantoux). If a Mantoux skin test is positive (as indicated by 10 millimeters of induration), and immediate chest X-ray and subsequent biennial chest films are required. Persons having a history of previous tuberculosis infection shall present a statement from a physician that their tuberculosis infection is inactive and noncommunicable, and they shall have annual chest X-rays. Proof of current negative skin test or X-ray interpreted as negative for tuberculosis shall be on file in the agency.

(3) If the appearance, behavior, or history of the applicant, or any member of the household or staff lead to question of the applicant's physical ability, emotional stability or other condition which would adversely affect his or her ability to provide child care, evidence based upon appropriate professional examination shall be submitted as to his or her fitness to provide child care.

(4) No person under 18 years of age may be licensed to provide day care.

(5) Persons giving care to children shall not have been convicted of any offense against children, in particular child abuse or neglect or sexual abuse.

(6) Licensee shall have completed at least two years of satisfactory service as a licensed family day care home, or have an equivalent amount of training in group care of preschool aged children, or have an equivalent combination of training and experience. [Order 936, § 388-75-262, filed 5/23/74.]

**WAC 388-75-265 Mini-day care center—Program and equipment.** (1) Separate play areas shall be available for children under one year of age or not walking, and older children.

(2) A variety of suitable outdoor play equipment shall be available for such activities as climbing, pulling, pushing and riding. Equipment shall be constructed and maintained to minimize chances of accidents.

(3) There shall be variety of suitable indoor play equipment including but not limited to art materials, musical materials and toys suitable for table top play. Toys which might be ingested by infants or are otherwise hazardous to younger children shall be removed from areas in which they are playing.

(4) Children shall be under close supervision of an adult and within easy hearing distance at all times. If the absence of any staff member is necessary, the children must be left in the charge of a competent substitute.

(5) With written permission, school age children may visit neighborhood friends and participate in community activities such as scouting, sports, etc.

(6) The applicant/licensee shall develop a planned program of both group and individualized activities with the providers of care playing an active role, as well as periods of free play, designed to promote the physical, mental and social skills of the children under care. [Order 936, § 388-75-265, filed 5/23/74.]

**WAC 388-75-268 Mini-day care center—Nutrition.** (1) At least one balanced, nutritious meal shall be provided to each child in care in excess of five hours. If children bring sack lunches from home, licensee shall consult with parents as to their adequacy and shall supplement such lunches with milk and other foods as may be necessary to assure child of an adequate diet. The use of raw milk is prohibited. If children are in care in excess of 10 hours, licensee shall consult with the child's parents as to whether licensee shall furnish breakfast and/or an evening meal to assure that child does not go too long between regular meals. Licensee shall furnish wholesome mid-morning and mid-afternoon snacks to all children in care.

(2) All formulae for infants under three months of age shall be prescribed by the child's physician. All formulae shall be commercially prepared and ready to feed. If a special formula which cannot be purchased ready to feed is required for an individual child, it shall be prepared under conditions approved by the health services division.

(a) Infants under six months of age shall be held by staff while feeding. Infants over six months of age who

prefer to hold their own bottles may do so, providing an attendant remains within observation range.

(b) Semi-solid foods shall be provided for infants at approximately three months of age upon consultation with parent and with physician when indicated. [Order 936, § 388-75-268, filed 5/23/74.]

**WAC 388-75-271 Mini-day care center—Discipline.** (1) Disciplinary policies shall be stated in writing. Discipline shall be a staff responsibility and shall not be prescribed or administered by children. Discipline shall be based on an understanding of the individual child's needs and stage of development and shall be designed to help the child develop inner control, acceptable behavior and respect for the rights of others.

(2) Discipline shall be fair, reasonable, consistent and related to the child's behavior. Cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline shall not be administered. [Order 936, § 388-75-271, filed 5/23/74.]

**WAC 388-75-274 Mini-day care center—Records.** Licensee shall maintain records containing the following information about each child accepted for care:

- (1) Child's name and birthdate;
- (2) Names, addresses, and telephone numbers (home and business) of father and mother or guardian, physician, and other persons to be notified in case of an emergency and persons authorized to take child from home;
- (3) Dates of child's admission, discharge and daily attendance. [Order 936, § 388-75-274, filed 5/23/74.]

**WAC 388-75-277 Mini-day care center—Health care.** (1) There shall be a written plan of action to be taken in event of medical emergencies and arrangements for the provision of needed medical care. Medications shall be administered only as authorized by a physician and as approved by child's parent or guardian.

(2) First aid supplies as needed to conform to written policies shall be readily available. Whenever preschool children are cared for, first aid supplies shall include syrup of ipecac. A staff member who has completed a basic Red Cross first aid course or its equivalent shall be present at all times.

(3) Each child shall be observed for signs of illness each day as he enters. Children who are tired, ill, or upset shall be given a chance to rest in a quiet area under frequent observation. Ill children need not be discharged home as a routine policy. The [they] may be cared for during minor illness at the discretion of the parent. In the case of more severe illness, the child shall be separated from the other children and properly attended until arrangements are made for return to his home. In case of communicable disease, utensils, toys, bedding and equipment used by a sick child shall not be used by other children until properly disinfected. Any child who requires frequent seclusion and health observation for fatigue, illness or emotional upset shall be referred through the parents for complete medical evaluation. The day care facility shall provide the family with a

complete report of the observations of the child. A record of accidents and illnesses, including action taken shall be recorded by the person taking the action and shall be kept on file. Parents or guardians shall be informed of a child's injury, illness or exposure to a communicable disease on the same day such events occur.

(4) A record of allergies and conditions of the child which may be adversely affected by the day care experience shall be obtained from the parent of each child upon admission.

(5) The parent or guardian of any child entering or presently attending the mini-day care center shall present the director evidence of the child's state of immunity to diphtheria, tetanus, polio, measles and rubella either as a result of an accepted course of immunizations appropriate to his age as outlined by the public health service advisory committee on immunization practices, or in the case of measles, by reason of having had the disease.

(a) Records of immunization shall be on file in the center and shall be kept current. Children who have not received all immunizations appropriate for their age may be accepted on a provisional basis if immunizations have been started and are completed as rapidly as is medically indicated.

(b) The director shall provide the local health officer with the names of children who need further immunizations, and the names, addresses and phone numbers of their parents or guardian.

(c) Exceptions to this immunization requirement shall be made in the case of a parent or guardian who expresses religious, intellectual, or philosophical objections by signing a statement to this effect. Children also shall be excused upon the presentation of a physician's statement that a valid medical reason exists to contraindicate immunization. [Order 936, § 388-75-277, filed 5/23/74.]

**WAC 388-75-280 Mini-day care center—Physical facilities.** (1) The dwelling and furnishings shall be clean, and in good repair. Home and grounds shall be reasonably free from hazards.

(2) Ventilation, light and heat to insure health and comfort shall be provided and there shall be facilities for sanitary storage, refrigeration, and preparation of food.

(3) Cleaning supplies, poisonous substances and medications shall be stored in locked cabinets or rooms or otherwise stored out of the reach of children. Electrical outlets accessible to children shall be of tamperproof type.

(4) Except for facilities which provide strictly drop-in care, the facility shall have an appropriately equipped, safe outdoor play area which directly adjoins the indoor facilities or which can be reached by a safe route or method approved by the department. The playground shall contain a minimum of 75 square feet per ambulatory child and 50 square feet per non-ambulatory child. If programming is such that only a portion of the group uses the playground at one time, the size may be reduced correspondingly. The outdoor play area shall be fenced or naturally bounded.

(5) Suitable storage space shall be provided for the personal belongings and clothing of each child. Individual towels and toilet articles shall be provided.

(6) Drinking water obtained from a private source must be approved by the county health department or other authorized agency. The use of raw milk is prohibited.

(7) There shall be adequate toilet and lavatory facilities. The hot water supply shall not exceed 110°F at bathing and washing facilities used by children. For children requiring them, disposable diapers, diapers supplied by the parents or a commercial diaper service may be used. If a common diaper changing area is used, it shall be sanitized between usage by different children or protected by a disposable covering which is discarded after each use.

(8) A separate, firm, clean bed, crib, cot or mat of sufficient size and clean bedding shall be provided for each child under five years of age who remains in care for more than six hours, and for any other child who requires a nap or rest period. Infants shall be provided cribs until, at the discretion of the parent and the day care staff, he is safe on a cot or mat. Mattresses and mats shall be covered with easily washable material.

(a) Cribs shall have secure latching devices and the bars shall be spaced so a child can see out but cannot get his head between the bars. Crib mattresses shall be completely encased with moisture-proof material. Bedding shall include an easily laundered sheet or blanket to cover the surface of the cot or crib and a suitable covering for the child. Cribs, cots and mats shall be thoroughly washed when soiled and between use by different children.

(9) All painted surfaces accessible to children shall be free of lead. If suspicion exists as to the type of paint, the applicant/licensee shall submit a sample for testing. [Order 936, § 388-75-280, filed 5/23/74.]

**WAC 388-75-283 Mini-day care center—Fire safety.** The agency shall comply with appropriate rules and regulations adopted by the state fire marshal. [Order 936, § 388-75-283, filed 5/23/74.]

**WAC 388-75-303 Day care center.** The rules in WAC 388-75-306 through 388-75-396 apply exclusively to the licensing of a day care center as defined in WAC 388-75-015(5)(a). In addition WAC 388-75-003 through 388-75-090 are applicable to the extent pertinent to a day care center. [Order 936, § 388-75-303, filed 5/23/74.]

**WAC 388-75-306 Day care center—Required personnel.** Each day care center shall have the following minimum staff:

(1) A director or chief executive, responsible for the overall management of the day care center's facility and its operation, and a program supervisor responsible for the planning and supervision of the child care and children's activities program. The director and program supervisor may be one and the same person if he or she is qualified for both positions. One or the other shall normally be on the premises while children are in care and

another competent person left in charge during their temporary absence.

(a) The director shall be at least 21 years of age and shall have the management and supervisory skills necessary for the proper administration of the day care center, including the maintenance of necessary records, the management of the agency's finances, and the maintenance of positive relationships with staff, parents and the community as evidenced by appropriate references and on-the-job performance.

(b) The program supervisor shall be at least 21 years of age, and shall have a knowledge of child growth and development and techniques of guiding children's behavior and the ability to plan programs to meet the needs of the children served as evidenced by appropriate references and on-the-job performance. He or she shall have had at least two years successful experience working with children of the same age level as those served by the center and shall have either completed 45 college quarter credit hours or equivalent training in courses such as child growth and development and early childhood education or shall have a plan approved by the department for the achievement of such training within a reasonable period of time, provided that the opportunity for such training is reasonably available.

(c) The director and program supervisor may also serve as child care staff to the extent that such role does not interfere with their management and supervisory responsibilities, except that in centers caring for more than 50 children the director may be counted in maintaining required numbers of child care staff only in case of emergency.

(2) Child-care staff. Persons responsible for the direct care and supervision of the children and free of other duties while serving in such role, whether paid staff or volunteers, shall be provided for each group of children as follows:

(a) Number of child-care staff:

Age of Children	Ratio of Staff to Children
1 month through 11 months	1:5
12 months through 29 months	1:7
30 months and older	1:10 or major fraction of such number

The above child-care staff to child ratio shall be maintained both indoors and out and on field trips. Reasonable variations related to the groupings and activities of the children are permissible as long as the children are adequately supervised and the total required number of staff is maintained. During the children's rest periods the ratio shall be maintained but child-care staff may be involved in other activities so long as they remain on the premises and each child is within visual and auditory range of a staff member.

(b) Minimum staff on duty. Whenever more than ten children are on the premises, there shall be at least two staff members on duty.

(c) Qualifications of child-care staff. All child-care staff shall be at least 16 years of age, but in no case

shall a person under 18 be assigned sole responsibility for a group of children. Child-care staff shall be persons of good character and shall not have been convicted of child abuse or other offense against children. They shall be in good physical and mental health and competent to deal with practical problems of child care and emergencies. They shall have a genuine liking of and respect for children and adults and an ability to form warm relationships with children.

(3) Nursing consultation. Whenever children under one year of age are in care the agency shall arrange for regular weekly consultation by a registered nurse trained or experienced in the care of young children. In collaboration with the agency's advisory physician and administrative staff, the nurse shall be responsible for advising the agency on the operation of its infant care program and on the implementation of its child health program.

(4) An advisory physician. The agency shall arrange for the services of an advisory physician who shall be responsible for assisting in the development, periodic review and approval of the agency's health policies, procedures and practices and who shall be available in the event of medical emergencies.

(5) Auxiliary staff shall be available as needed for cooking, maintenance and clerical work, transportation, etc. Child care staff may not be counted in the required staff to child ratios while involved in such auxiliary duties. [Order 936, § 388-75-306, filed 5/23/74.]

**WAC 388-75-309 Day care center—Staff training.** Each center shall have an in-service training program for the upgrading of the skills of staff. Child-care staff shall be encouraged to attend appropriate and reasonably available workshops and academic courses in the field of child care. [Order 936, § 388-75-309, filed 5/23/74.]

**WAC 388-75-312 Day care center—Program.** The agency shall implement a program designed to meet the developmental needs of the various age groups served and in consideration of the cultural and other particular needs of individual children or groups of children. The program shall provide for a balance between free play and organized activities, between individual play and the sharing of experiences among children; and shall promote individual contact between staff and child. There shall be reasonable regularity of activities from day to day, but allowance shall be made for a variety of special events. Children of all ages shall spend a portion of the day outdoors, weather permitting. [Order 936, § 388-75-312, filed 5/23/74.]

**WAC 388-75-315 Day care center—Maximum hours—Rest periods.** (1) Children shall normally not remain in care in excess of ten hours per day except as is necessitated by the parent's working hours and travel time to and from the center.

(2) Supervised rest periods shall be provided for all children under five years of age who remain in care in excess of six hours and for other children who show a need for rest. Children under 2-1/2 years of age shall nap in rooms separated from older children and shall be

allowed to follow their own sleep schedules. [Order 936, § 388-75-315, filed 5/23/74.]

**WAC 388-75-318 Day care center—Discipline.**

(1) Disciplinary policies shall be stated in writing. Discipline shall be a staff responsibility and shall not be prescribed or administered by children. Discipline shall be based on an understanding of the individual child's needs and stage of development and shall be designed to help the child develop inner control, acceptable behavior and respect for the rights of others.

(2) Discipline shall be fair, reasonable, consistent and related to the child's behavior. Cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline shall not be administered. [Order 936, § 388-75-318, filed 5/23/74.]

**WAC 388-75-321 Day care center—Infant care.**

(1) Minimum age. Children under one month of age shall not be accepted for care.

(2) Separate rooms for children under one year.

(a) Children under one year of age or who are not yet walking shall be cared for in rooms separate from older children, with not more than ten such children to a room and with handwashing facilities in each such room.

(b) The department may approve the use of separate areas, rather than separate rooms, for the temporary care of children under one year of age provided that handwashing facilities are so located that it is practical for personnel to wash their hands before and after handling each child; and provided that each group of no more than ten such children are separated from other children by solid screens or portable partitions that extend from the floor to a height of at least seven feet and which are of a material and construction approved by the health services division and the fire marshal.

(3) Daily program. The daily program for infants shall provide opportunities for exercise, large and small muscle development, crawling and exploring, sensory stimulation, social interaction and the development of communication and self-help skills. The center shall provide suitable toys and equipment for infant care.

(4) Feeding of infants.

(a) Children under one year of age shall be fed on a schedule agreed upon by the child's parents and staff. All formulae for infants under three months of age shall be prescribed by the infant's physician or the agency's advisory physician and shall be commercially prepared and ready to feed. Special formulae which cannot be purchased ready to feed shall be prepared under conditions approved by the health services division of the department. Milk for children requiring bottles, but no longer on formula shall be poured from the original container into sanitized bottles. Filled bottles may be used immediately or kept under refrigeration for no longer than 24 hours. The use of raw milk is prohibited. Reusable nipples must be thoroughly washed and sanitized by boiling for five minutes. Disposable nipples are recommended.

(b) Bottles shall not be propped. Infants under six months of age shall be held in a semi-sitting position for all feedings. Infants six months of age and over who



show a preference for holding their own bottles may do so providing an attendant remains in the room and within observation range.

(c) Semi-solid foods shall be provided for infants at approximately three months of age, upon consultation with the parent and with a physician when indicated. Infants too young to sit in a high chair or at a feeding table shall be held in a semi-sitting position while being fed.

(5) Diaper procedures - toilet training.

(a) Disposable diapers, a commercial diaper service, or reusable diapers supplied by the family may be used. Soiled diapers shall be placed without rinsing into separate cleanable containers provided with water proof liners prior to transport to laundry, parent, or acceptable disposal. Rinsing is not permitted because of the danger of cross-infection. Diapers shall be removed from the premises at least daily. If a common diaper-changing place is used, it shall be sanitized between use by different children or protected by a disposable covering which is discarded after each use. Personnel shall wash their hands before and after diapering each child.

(b) Toilet training shall be initiated when readiness is indicated by the child and in consultation with child's parents. [Order 936, § 388-75-321, filed 5/23/74.]

**WAC 388-75-324 Day care center—Toddlers and preschool children.** (1) The program for children who are walking but not yet in the first grade shall be planned to promote large muscle development, intellectual and social-emotional development and good health habits.

(2) Ambulatory children between one year and 2-1/2 years of age may be grouped with older children during their waking hours provided that the total number of children to a group does not exceed ten and two staff members are assigned to the group.

(3) Large muscle development. Experiences shall be provided regularly to develop each child's ability to walk, run, climb, push, pull, swing, jump, roll, slide, throw, catch, hit, dig, lift, carry, pedal and steer wheeled toys.

(4) Intellectual development. Experiences shall be provided regularly for development of sensory awareness and discrimination, language skills (listening, speaking, singing), eye-hand coordination, ability to manipulate different materials, creativity, problem-solving skills, willingness to discover and experiment, and awareness of cause and effect.

(5) Social-emotional development. Experiences shall be provided regularly for development of skills which lead to self-respect and positive social relationships. These include self-help skills, sharing, trust in adults and other children, making friends, respect for the rights and property of others, standing up for own rights, playing alone and with others, sense of humor, sense of pride in completing tasks, increased attention span, ability to delay impulse gratification, ability to stay happily at the center without a parent, self-confidence, ability to make decisions, and self-control.

(6) Health habits. Children shall be instructed and encouraged in proper personal hygiene and health habits. [Order 936, § 388-75-324, filed 5/23/74.]

**WAC 388-75-327 Day care center—School-age children.** Centers providing before and after school care or summer care for school-age children shall have a separate program appropriate to the ages of the children enrolled. Program activities shall include: art, crafts, organized games and sports, and the opportunity to do homework and other quiet activities. Children shall have a chance to occasionally or regularly engage in activities outside the center. If six or more school-age children are enrolled, separate areas shall be provided to avoid interference with the effectiveness of the program for younger children. With written parental permission, school-age children may visit neighborhood friends and participate in community activities such as scouting, sports, etc. [Order 936, § 388-75-327, filed 5/23/74.]

**WAC 388-75-330 Day care center—Handicapped children.** Children with physical, emotional, or mental handicaps may be accepted for care if the handicapped child can benefit from the program, if his presence does not jeopardize the effectiveness of the program for other children and if the center is equipped to meet his special needs. [Order 936, § 388-75-330, filed 5/23/74.]

**WAC 388-75-333 Day care center—Drop-in care.** (1) Drop-in care is defined as unscheduled care on a one-time only or irregular basis.

(2) An agency which provides both drop-in care and regularly scheduled care for more than six children in each program shall keep the drop-in children in a separate room, with separate staff and program. This requirement does not apply to evening and nighttime care. [Order 936, § 388-75-333, filed 5/23/74.]

**WAC 388-75-336 Day care center—Evening and nighttime care.** (1) A day care center offering care during evening and nighttime hours shall adapt the program and equipment and plan for staff use to meet the physical and emotional needs of children away from their families at night.

(2) The child-care worker to child ratio shall remain the same as during daytime care. During sleeping hours, all children shall be within visual range or listening distance of a staff member. All staff on duty shall be awake.

(3) Grouping of children shall be arranged so that sleeping children are not disturbed by the arrival or pickup of other children.

(4) Children in evening care shall be served a nutritious dinner, if not fed the dinner meal at home prior to arrival at the center, and a bedtime snack. Children in nighttime care shall be served a nutritious breakfast if remaining at center after the usual breakfast hour. [Order 936, § 388-75-336, filed 5/23/74.]

**WAC 388-75-339 Day care center—Furnishings and equipment.** (1) Safety. Furniture shall be safe, durable, easily cleaned, and child-sized or appropriately adapted for ages of children served. Equipment shall be sturdy, well-constructed, in good condition, safe and free of sharp, loose, or pointed parts. Paint used on furniture and indoor or outdoor equipment shall be free of lead or other poisonous materials. Equipment and furniture shall be kept clean. Furniture and equipment shall be arranged so as not to block exit aisles or otherwise create a hazard.

(2) Program equipment. The center shall provide equipment of sufficient quantity and variety to carry out the required program and to provide every child with the opportunity for physical and intellectual development. The selection of equipment shall provide opportunities for play alone or in groups and there shall be an appropriate number of materials from each of the following categories: art supplies, blocks and accessories, books, housekeeping furniture and props, manipulative toys, musical instruments, science materials, water play supplies, props for dramatic play, and large muscle equipment.

(3) Nap equipment (see also WAC 388-75-375(1) and WAC 388-75-315).

(a) A separate, firm, clean bed, crib, cot or mat of sufficient size and clean bedding shall be provided for each child under five years of age who remains in care for more than six hours, and for any other child who requires a nap or rest period. Infants shall be provided cribs until, at the discretion of the director and parents, he is safe on a cot or mat. Mattresses and mats shall be covered with easily washable material.

(b) Cribs shall have secure latching devices and the bars shall be spaced so a child can see out but cannot get his head between the bars. Crib mattresses shall be completely encased with moisture-proof material. Bedding shall include an easily laundered sheet or blanket to cover the surface of the cot or crib and a suitable covering for the child. Cribs, cots and mats shall be thoroughly washed when soiled and between use by different children. [Order 936, § 388-75-339, filed 5/23/74.]

**WAC 388-75-342 Day care center—Children's records.** Records giving the following information on each child enrolled in the agency shall be maintained:

(1) Identifying information, including child's full name, birthdate, dates of enrollment and discharge; the full name, address, and telephone numbers (home and business) of parents or guardian, physician and other persons to be contacted in case of emergency; names of all persons other than person registering child who are authorized to take child from the center;

(2) Daily attendance records and fee payments for each child;

(3) Information for each child under 2-1/2 years of age concerning his feeding and sleeping schedule, toilet training, favorite toys, experience playing with other children, methods used by parents to discipline and comfort him, how he expresses frustration, and special words he uses for wants. [Order 936, § 388-75-342, filed 5/23/74.]

**WAC 388-75-345 Day care center—Parent-center relationships.** (1) Efforts shall be made to encourage parental visits to the center, strengthen the child's relationship with his family and to work closely with the family to meet the child's developmental needs.

(2) Except for drop-in centers, prior to a child's admission, the parent or guardian shall visit the center and explore with the director whether this child care arrangement will best meet the needs of the child and his family. The parent shall be supplied with the following information in written form: a statement of program goals and content; a daily schedule of activities; admission requirements and enrollment procedures; hours of operation; meals and snacks served; fees and payment plan; regulations concerning sick children; transportation arrangements and arrangements for trips. [Order 936, § 388-75-345, filed 5/23/74.]

**WAC 388-75-348 Day care center—Nutrition.**

(1) Food served by the agency shall be planned in light of the needs of the children, taking into consideration their ages, cultural background and hours of care in the center. The use of raw milk is prohibited.

(2) At least one balanced, nutritious meal shall be provided to each child in care in excess of five hours. If children bring sack lunches from home, licensee shall consult with parents as to their adequacy and shall supplement such lunches with milk and other foods as may be necessary to assure child of an adequate diet. If children are in care in excess of ten hours, licensee should consult with child's parents as to whether licensee shall furnish breakfast and/or an evening meal to assure that child does not go too long between regular meals. Licensee shall furnish wholesome mid-morning and mid-afternoon snacks to all children in care.

(3) Dated daily menus of food served shall be plainly posted at the center. Daily menus shall be kept on file for six months for review by the department.

(4) Nutrient concentrates and supplements and modified diets (therapeutic, special) shall not be served except with the written instructions of a physician. [Order 936, § 388-75-348, filed 5/23/74.]

**WAC 388-75-351 Day care center—Tuberculosis tests for staff.** Each person working with children shall have tuberculosis screening upon beginning such work or within the immediately prior two-year period and every two years thereafter. Persons whose tuberculin skin tests have previously been positive or who are over 50 years of age shall have such tuberculosis screening in the form of a chest X-ray. Persons under 50 years of age who have no knowledge of previous positive tuberculin skin test shall have an intermediate purified protein derivative tuberculin skin test (Mantoux method) or a multiple puncture tuberculin skin test (by techniques such as a Tine test or Stern test) which shall, if positive, be confirmed by an intermediate purified protein derivative tuberculin test (Mantoux). If a Mantoux skin test is positive (as indicated by ten millimeters of induration), an immediate chest X-ray and subsequent biennial chest films are required. Persons having a history of previous tuberculosis infection shall present a statement from a

physician that their tuberculosis infection is inactive and noncommunicable, and they shall have annual chest X-rays. Proof of current negative skin test or X-ray interpreted as negative for tuberculosis shall be on file in the agency. [Order 936, § 388-75-351, filed 5/23/74.]

**WAC 388-75-354 Day care center—Medical policies.** There shall be readily available to staff and other interested parties, written medical policies and procedures including standing orders for first aid, care of minor acute illnesses, action to be taken in the event of medical emergencies, infant-care procedures and general health practices. These policies shall be developed with the advice and approval of a licensed physician. Medications shall be administered only as authorized by a physician and as approved by child's parent or guardian. [Order 936, § 388-75-354, filed 5/23/74.]

**WAC 388-75-357 Day care center—First aid.** First aid supplies as needed to conform to written policies shall be readily available. Whenever preschool children are cared for, first aid supplies shall include syrup of ipecac. A staff member who has completed a basic Red Cross first aid course or its equivalent shall be present at all times. [Order 936, § 388-75-357, filed 5/23/74.]

**WAC 388-75-360 Day care center—Health history—Physical exam.** A health history shall be obtained from the parent for each child upon admission. This shall include an immunization history, allergies and conditions of the child which may be adversely affected by the day care experience or which may have adverse effect upon other children. If the child has not had a physical exam by a physician within the preceding year or has not been under routine care of a physician, the parent or the center, with parental permission, shall arrange for such an examination prior to or within a reasonable time after admission. [Order 936, § 388-75-360, filed 5/23/74.]

**WAC 388-75-363 Day care center—Immunizations.** (1) The parent or guardian of any child entering or presently attending the day care center shall present to the director evidence of the child's state of immunity to diphtheria, tetanus, polio, measles and rubella either as a result of an accepted course of immunizations appropriate to his age as outlined by the public health service advisory committee on immunization practices, or in the case of measles, by reason of having had the disease.

(2) Records of immunizations shall be on file in the center and shall be kept current. Children who have not received all immunizations appropriate for their age may be accepted on a provisional basis if immunizations have been started and are completed as rapidly as is medically indicated.

(3) The director shall provide the local health officer with the names of children who need further immunizations, and the names, addresses and phone numbers of their parents or guardian.

(4) Exceptions to this immunization requirement shall be made in the case of a parent or guardian who expresses religious, intellectual, or philosophical objections by signing a statement to this effect. Children also shall be excused upon the presentation of a physician's statement that a valid medical reason exists to contraindicate immunization. [Order 936, § 388-75-363, filed 5/23/74.]

**WAC 388-75-366 Day care center—Ill children—Illness and accident report.** (1) The agency shall observe each child for signs of illness each day when he arrives at the center.

(2) Children who are tired, ill, or upset shall be given a chance to rest in a quiet area under frequent observation. Ill children need not be discharged home as a routine policy. They may be cared for during minor illness at the discretion of the parent. In the case of more severe illness, the child shall be separated from the other children and properly attended until arrangements are made for return to his home. In case of communicable disease, utensils, toys, bedding and equipment used by a sick child shall not be used by other children until properly disinfected. Any child who requires frequent seclusion and health observation for fatigue, illness or emotional upset shall be referred through the parents for complete medical evaluation. The day care facility shall provide the family with a complete report of the observations of the child. A record of accidents and illnesses, including action taken shall be recorded by the person taking the action and shall be kept on file. Parents or guardians shall be informed of a child's injury, illness or exposure to a communicable disease on the same day such events occur. [Order 936, § 388-75-366, filed 5/23/74.]

**WAC 388-75-369 Day care center—Site and communications—Outdoor play area.** (1) The agency shall be located on a well-drained site in an area free from hazardous conditions and accessible to other facilities necessary to carry out its program. There shall be at least one telephone on the premises.

(2) Except for centers which provide strictly drop-in care, the center shall have an appropriately equipped, safe outdoor play area which directly adjoins the indoor facilities, or which can be reached by a safe route or method approved by the department. The playground shall contain a minimum of 75 square feet per ambulatory child and 50 square per non-ambulatory child. If programming is such that only a portion of the group uses the playground at one time, the size may be reduced correspondingly. The outdoor play area shall be fenced or naturally bounded. [Order 936, § 388-75-369, filed 5/23/74.]

**WAC 388-75-372 Day care center—Safety and maintenance.** The physical plant, premises and equipment shall be maintained in a clean and sanitary condition, free of hazards and in good repair. Handrails shall be provided on both sides of each stairway accessible to children. Screens or other satisfactory protection shall be provided for fireplaces, hot pipes, windows, electric fans,

drainage ditches, swimming pools, etc. Agencies operating during hours of darkness shall provide emergency lighting facilities in operational condition, such as flashlights, in each child care area. Each electrical outlet accessible to children shall be of the tamper-proof type in centers caring for preschool aged children. [Order 936, § 388-75-372, filed 5/23/74.]

**WAC 388-75-375 Day care center—Required rooms, area, equipment.** There shall be rooms and areas of sufficient size and properly equipped to accommodate the number of children served. Furniture and equipment used by the children shall be scaled to their size. Space shall be so arranged as to facilitate supervision of the children, and to fulfill the following functions:

(1) Play, dining, and napping areas. Play, dining and napping may be carried on in the same room (exclusive of bathrooms, kitchens, hallways and closets) provided it is of sufficient size, and programming is such that usage of the room for one purpose does not interfere with usage for its other purposes. If the same area is used for play and napping for children requiring cribs, a minimum of 50 square feet per child is required. If the same area is used for play and napping for children using cots or mats, and the cots or mats are removed when not in use, a minimum of 35 square feet per child is required. If separate areas are used for play and napping, 35 square feet per child is required in each area. There shall be at least 30 inches laterally between beds, cots, or cribs. (See also WAC 388-75-339(3)).

(2) Storage space. Suitable space shall be provided for storage of children's clothing and personal possessions; play and teaching equipment and supplies; records and files; cots, mats and bedding; cleaning equipment and supplies; first aid equipment. Cleaning supplies, poisons, aerosol containers, items bearing warning labels shall be stored in locked cabinets or rooms. Medication shall be stored in a separate locked container within a locked cabinet or in a locked cabinet or container used only for medications. Each child's bedding shall be stored separate from bedding used by other children.

(3) Toilet, lavatory, and bathing facilities.

(a) There shall be a ratio of one indoor flush-type toilet and one lavatory with hot and cold running water for every 15 children and staff members or major portion (8 or more) of such number. There shall be a minimum of two toilet and lavatory facilities for each agency and separate toilet rooms for boys and girls six years of age and over. Toilets shall be of an appropriate height for the children served or be provided with a safe and easily cleanable platform.

(b) Equipment for toileting and toilet training of toddlers shall be provided and maintained in a sanitary condition at all times. Infants in diapers and those using toilet training equipment need not be included when determining the number of flush-type toilets required.

(c) Whenever urinals are provided for males, one toilet less than the number specified may be provided for each urinal installed except that the number of toilets in such cases shall not be reduced to less than two-thirds of

the minimum specified. The urinals shall be appropriate height for the children served or be provided with a safe and easily cleanable platform.

(d) Soap and paper towels in approved dispensers accessible to children, or individual cloth towels for each child, shall be provided at each lavatory. Common towels are prohibited. Hot water shall be provided at lavatories and bathing facilities and shall not exceed 110°F for preschool and mentally retarded children. Children under six years of age shall not be left unattended in a tub. Tubs shall be thoroughly cleaned between use by different children.

(4) Special care room. A separate room or segregated area shall be designated for the care of a child who needs to be separated from the group temporarily because of injury, illness, or the need for additional rest. This room must be so located that the child can be supervised. Toilet and lavatory facilities must be readily available. If the child is suspected of having a communicable disease, all equipment used by the child must be adequately sanitized after his use. The special care room shall have one crib or cot for every 20 children enrolled.

(5) Housekeeping sink. A housekeeping sink or a substitute acceptable to the health services division shall be provided.

(6) Kitchen facilities. Facilities for the proper storage, preparation and service of food shall be provided to the extent the program requires such functions. All food service facilities and practices shall be in compliance with chapter 248-84 WAC, rules and regulations of the state board of health governing food service sanitation. Kitchen equipment and food preparation procedures shall be approved by the health services division and the office of the state fire marshal. The kitchen shall be inaccessible to children except for planned and supervised activities centering around food preparation and requiring the use of kitchen facilities. [Order 936, § 388-75-375, filed 5/23/74.]

**WAC 388-75-378 Day care center—Sewage and liquid wastes.** Sewage and liquid wastes shall be discharged into a public sewage system or into an independent sewage system approved by the local health department. [Order 936, § 388-75-378, filed 5/23/74.]

**WAC 388-75-381 Day care center—Pest control.** The premises shall be kept free of flies, cockroaches, and other insects and breeding places therefor. Buildings shall be constructed to prevent the entrance of rodents. [Order 936, § 388-75-381, filed 5/23/74.]

**WAC 388-75-384 Day care center—Laundry.** Adequate laundry and drying equipment shall be provided unless arrangements are made for commercial laundry services or bedding and clothing are provided and laundered by parents. Laundry equipment shall be located in an area separate from kitchen and child care areas. Water temperature for laundry must be maintained at a minimum of 160°F. Adequate facilities shall be provided for storage of soiled and clean linen. [Order 936, § 388-75-384, filed 5/23/74.]

**WAC 388-75-387 Day care center—Water supply and plumbing.** (1) Water supply shall meet the standards of the health services division. Drinking water shall be convenient to the children's play area. Disposable paper cups, individual drinking cups, or inclined jet type drinking fountains shall be provided. Bubblers type fountains and common drinking cups are prohibited.

(2) All plumbing shall comply with the local plumbing code or, if no such code exists, with the uniform plumbing code of the Western Plumbing Officials Association. Cross-connections are prohibited. [Order 936, § 388-75-387, filed 5/23/74.]

**WAC 388-75-390 Day care center—Floors, walls, ceilings, windows.** (1) All walls, ceilings and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. Toilet rooms, kitchens, and other rooms subject to excessive soiling or moisture shall have washable, impervious floors. Floor areas used for floor-play shall be draft-free and out of the regular traffic area. In buildings newly constructed, windows shall be placed so children can see outside.

(2) All flaking or deteriorating paint on exterior and interior surfaces accessible to infants and pre-school age children shall be refinished with lead-free paint or other nontoxic material. [Order 936, § 388-75-390, filed 5/23/74.]

**WAC 388-75-393 Day care center—Ventilation—Room temperature—Lighting.** (1) Rooms used for the care of children shall be well ventilated. Inside toilets, bathrooms, and housekeeping closets shall be vented by mechanical exhausts directly to the outside air.

(2) Room temperatures shall be maintained from 68°F to 74°F while children are under care. This provision shall not be construed to require air conditioning, although such is recommended during hot weather.

(3) Lighting fixtures shall be selected and located to provide for the comfort and safety of the residents. Lighting intensity shall be at least 15-foot-candles for all rooms and areas except classrooms and reading areas which shall be 30-foot-candles. [Order 936, § 388-75-393, filed 5/23/74.]

**WAC 388-75-396 Day care center—Fire safety.** The agency shall comply with appropriate rules and regulations adopted by the state fire marshal. [Order 936, § 388-75-396, filed 5/23/74.]

**WAC 388-75-403 Day treatment center.** The rules in WAC 388-75-406 through 388-75-469 apply exclusively to the licensing of a day treatment center as defined in WAC 388-75-015(5)(c). In addition WAC 388-75-003 through 388-75-090 are applicable to the extent pertinent to a day treatment center. [Order 936, § 388-75-403, filed 5/23/74.]

**WAC 388-75-406 Day treatment center—Function of day treatment program.** (1) A day treatment program is an integrated educational and therapeutic group

living experience provided during part of the 24-hour day, usually throughout the five day week, for the emotionally disturbed child who does not require 24-hour residential care but who is unable to adjust to other available school programs because of disruptive behavior, family stress, learning disability or other serious emotional handicaps and/or who for similar reasons is unable to profit substantially from "out-patient" child guidance clinic services and related programs.

(2) Since a child's problems commonly derive from destructive family interactions, changes must generally be effected not only in the child but also in the family. Day treatment provides an alternative to the full-time institutionalization of an emotionally disturbed child whose parents and/or foster parents are willing and able to participate in the program in constructive manner. [Order 936, § 388-75-406, filed 5/23/74.]

**WAC 388-75-409 Day treatment center—Governing or advisory board.** A day treatment program shall be conducted under the auspices of a properly constituted governing board or an advisory board which shall be broadly representative of the community and groups served by the agency. Such boards shall be responsible for, or advise licensee on, program development and evaluation, policy formulation, staffing and general operation of the agency's program and for assuring adequate financial support and fiscal responsibility. [Order 936, § 388-75-409, filed 5/23/74.]

**WAC 388-75-412 Day treatment center—Personnel.** A day treatment program shall have the following staff: (1) A director or chief executive responsible for the overall management of the agency's facilities and its operation and a program supervisor responsible for the implementation and supervision of the agency's child care and treatment program. The director and the program supervisor may be one and the same person if he or she is qualified for both positions. One or the other shall normally be on the premises while the children are in care and another competent person left in charge during their temporary absence.

(a) The director shall be at least 21 years of age and shall have the management and supervisory skills necessary for the proper administration of the agency, including the maintenance of necessary records, the management of the agency's finances and the maintenance of positive relationship with staff, parents and the community as evidenced by appropriate references and on-the-job performance.

(b) The program supervisor shall be at least 21 years of age and shall have a knowledge of child growth and development, the origin and treatment of deviant behavior, techniques of guiding children's behavior and the ability, in conjunction with the director, board and other staff, to implement programs to meet the needs of the children served. He or she shall have at least a master's degree in social work, clinical psychology or closely related field.

(2) Psychiatrist – The agency shall receive regular consultation from a child psychiatrist.

(3) Psychologist – The agency shall provide or arrange for the services of a psychologist for the administration of psychological testing and related services as needed.

(4) Social worker – The agency shall provide regular social service by persons having at least a master's degree from a recognized school of social work in a minimum ratio of one such person for every 15 children in care.

(5) Teaching staff – The agency shall provide teaching staff by certified teachers qualified by training or experience in remedial education.

(6) Pediatrician – The services of a pediatrician shall be available on a basis agreed between the agency and the department.

(7) Group counselors – Group counselors shall be persons who are especially qualified by training or by experience in the care of disturbed children as agreed between the agency and department. [Order 936, § 388-75-412, filed 5/23/74.]

**WAC 388-75-415 Day treatment center—Ratio of counselor and teaching staff to children.** There shall be sufficient group counselors and teachers that the children are normally in groups of no more than six under the supervision of one or the other of such staff. [Order 936, § 388-75-415, filed 5/23/74.]

**WAC 388-75-418 Day treatment center—Personnel—General qualifications.** All staff and volunteers shall be persons of good character and emotional stability. They shall have the understanding, ability, physical health, and personality suited to meet the physical, mental, emotional and social needs of the children. They shall not have been convicted of any offense against children, for example, child abuse, neglect, or sexual abuse. [Order 936, § 388-75-418, filed 5/23/74.]

**WAC 388-75-421 Day treatment center—Tuberculosis tests for staff.** Each person working with children shall have tuberculosis screening upon beginning such work or within the immediately prior two-year period and every two years thereafter. Persons whose tuberculin skin tests have previously been positive or who are over 50 years of age shall have such tuberculosis screening in the form of a chest X-ray. Persons under 50 years of age who have no knowledge of previous positive tuberculin skin test shall have an intermediate purified protein derivative tuberculin skin test (Mantoux method) or a multiple puncture tuberculin skin test (by techniques such as a Tine test or Stern test) which shall, if positive, be confirmed by an intermediate purified protein derivative tuberculin test (Mantoux). If a Mantoux skin test is positive (as indicated by 10 millimeters of induration), an immediate chest X-ray and subsequent biennial chest films are required. Persons having a history of previous tuberculosis infection shall present a statement from a physician that their tuberculosis infection is inactive and noncommunicable, and they shall have annual chest X-rays. Proof of current negative skin test or X-ray interpreted as negative for tuberculosis

shall be on file in the agency. [Order 936, § 388-75-421, filed 5/23/74.]

**WAC 388-75-424 Day treatment center—Program.** The agency shall submit a detailed written program description for departmental approval outlining the educational, recreational, and therapeutic services to be provided to the child and his family. [Order 936, § 388-75-424, filed 5/23/74.]

**WAC 388-75-428 Day treatment center—Social study—Case plan.** (1) A written, diagnostic social study of each child and his family shall serve as the basis of the child's admission into the program.

(2) The agency shall maintain an individual record for each child and his family outlining the agency's plan and treatment goals and indicating the child's and family's progress. Such plan shall be updated at least quarterly. Upon termination of service, the agency shall enter in the child's record an evaluation of the effectiveness of the agency's service.

(3) Case records shall be treated confidentially and used only in the best interests of the child and his family. [Order 936, § 388-75-428, filed 5/23/74.]

**WAC 388-75-430 Day treatment center—Discipline.** (1) Disciplinary policies shall be stated in writing. Discipline shall be a staff responsibility and shall not be prescribed or administered by children. Discipline shall be based on an understanding of the individual child's needs and stage of development and shall be designed to help the child develop inner control, acceptable behavior and respect for the rights of others.

(2) Discipline shall be fair, reasonable, consistent and related to the child's behavior. Cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline shall not be administered. [Order 936, § 388-75-430, filed 5/23/74.]

**WAC 388-75-433 Day treatment center—Education.** In cooperation with the local school district, the agency shall provide an appropriate educational plan for each school-aged child in the program. [Order 936, § 388-75-433, filed 5/23/74.]

**WAC 388-75-436 Day treatment center—Health.**

(1) Medical policies. There shall be readily available to staff written medical policies developed with the advice and approval of a licensed physician for action to be taken in the event of medical emergency and outlining the agency's medical program. Medications shall be administered only as authorized by a physician and as approved by child's parent or guardian.

(2) First aid. First aid supplies as needed to conform to written policies shall be readily available. Whenever preschool children are cared for, first aid supplies shall include syrup of ipecac. A staff member who has completed a basic Red Cross first aid course or its equivalent shall be present at all times.

(3) Health history and treatment. A health history shall be obtained from the parent for each child upon admission. This shall include an immunization history

and an evaluation of conditions of the child which may be adversely affected by the day care experience and which may have an adverse effect upon the other children. If the child has not had a physical examination by a physician, the parent or the center with parental permission shall arrange for such an examination and for necessary follow-up treatment prior to or within a reasonable time after admission.

(4) Immunizations. Prior to admission or within a reasonable period of time thereafter, each child shall have immunizations appropriate to his age completed or brought up to date in accordance with current standards set by the American Academy of Pediatrics. If the center assumes responsibility for immunizations, written parental consent shall be obtained prior to immunization of a child.

(a) If immunizations are medically contraindicated for a child, there shall be a written statement to this effect which is dated and signed by the child's physician and the requirement shall be waived. If parents object to immunizations on religious, intellectual or philosophical grounds there shall be a written statement to this effect signed by the parent and the requirement shall be waived.

(5) Ill children - Illness and accident report. The agency shall observe each child for signs of illness each day when he arrives at the center. Children who are tired, ill, or upset shall be given a chance to rest in a quiet area under frequent observation. Ill children need not be discharged home as a routine policy. They may be cared for during minor illness at the discretion of the parent. In the case of more severe illness, the child shall be separated from the other children and properly attended until arrangements are made for return to his home. In case of communicable disease, utensils, toys, bedding and equipment used by a sick child shall not be used by other children until properly disinfected. Any child who requires frequent seclusion and health observation for fatigue, illness or emotional upset shall be referred through the parents for complete medical evaluation. The day care facility shall provide the family with a complete report of the observations of the child. A record of accidents and illnesses, including action taken shall be recorded by the person taking the action and shall be kept on file. Parents or guardians shall be informed of a child's injury, illness or exposure to a communicable disease on the same day such events occur. [Order 936, § 388-75-436, filed 5/23/74.]

**WAC 388-75-439 Day treatment center—Nutrition.** (1) At least one balanced, nutritious meal shall be provided to each child in care in excess of five hours. If children bring sack lunches from home, licensee shall consult with the parents as to their adequacy and shall supplement such lunches with milk and other foods as may be necessary to assure child of an adequate diet. If children are in care in excess of ten hours, licensee shall consult with the child's parents as to whether licensee shall furnish breakfast and/or an evening meal to assure that child does not go too long between regular meals. The licensee shall furnish wholesome mid-morning and mid-afternoon snacks to all children in care. The use of

raw milk is prohibited. [Order 936, § 388-75-439, filed 5/23/74.]

**WAC 388-75-442 Day treatment center—Site and communications—Outdoor play area.** (1) The agency shall be located on a well-drained site in an area free from hazardous conditions and accessible to other facilities necessary to carry out its program. There shall be at least one telephone on the premises.

(2) The agency shall have an appropriately equipped, safe outdoor recreation area which directly adjoins the indoor facilities, or which can be reached by a safe route or method approved by the department. The playground shall contain a minimum of 75 square feet per ambulatory child and 50 square feet per nonambulatory child. If programming is such that only a portion of the group uses the playground at one time, the size may be reduced correspondingly. The outdoor play area shall be fenced or naturally bounded. [Order 936, § 388-75-442, filed 5/23/74.]

**WAC 388-75-445 Day treatment center—Safety and maintenance.** The physical plant, premises and equipment shall be maintained in a clean and sanitary condition, free of hazards and in good repair. Handrails shall be provided on both sides of each stairway accessible to children. Screens or other satisfactory protection shall be provided for fireplaces, hot pipes, windows, electric fans, drainage ditches, swimming pools, etc. Agencies operating during hours of darkness shall provide emergency lighting facilities in operational condition, such as flashlights, in each child-care area. Each electrical outlet accessible to children shall be of the tamper-proof type in centers caring for preschool aged children. [Order 936, § 388-75-445, filed 5/23/74.]

**WAC 388-75-448 Day treatment center—Required rooms, area, equipment.** There shall be rooms and areas of sufficient size and properly equipped to accommodate the number of children served. Furniture and equipment used by the children shall be scaled to their size. Space shall be so arranged as to facilitate supervision of the children, and to fulfill the following functions:

(1) Children's activities space. Group activities, educational program and dining may be carried on in the same room provided it is of sufficient size, and programming is such that usage of the room for one purpose does not interfere with usage for its other purposes. A minimum of 35 square feet per child shall be provided for such purposes.

(2) Storage space. Suitable space shall be provided for storage of children's clothing and personal possessions; play and teaching equipment and supplies; records and files; cleaning equipment and supplies; first aid equipment. Cleaning supplies, poisons, aerosol containers, items bearing warning labels shall be stored in locked cabinets or rooms.

(3) Toilet, lavatory, and bathing facilities.

(a) There shall be a ratio of one indoor flush-type toilet and lavatory with hot and cold running water for

every fifteen children and staff members or major portion (eight or more) of such number. There shall be a minimum of two toilet and lavatory facilities for each agency and separate toilet rooms for boys and girls six years of age and over. Toilets shall be of an appropriate height for the children served or be provided with a safe and easily cleanable platform.

(b) Whenever urinals are provided for males, one toilet less than the number specified may be provided for each urinal installed except that the number of toilets in such cases shall not be reduced to less than two thirds of the minimum specified. The urinals shall be appropriate height for the children served or be provided with a safe and easily cleanable platform.

(c) Soap and paper towels in approved dispensers accessible to children, or individual cloth towels for each child, shall be provided at each lavatory. Common towels are prohibited. Hot water shall be provided at lavatories and bathing facilities and shall not exceed 110°F for preschool and mentally retarded children.

(4) Special care room. A separate room or segregated area shall be designated for the care of a child who needs to be separated from the group temporarily because of injury, illness, or the need for additional rest. This room must be so located that the child can be supervised. Toilet and lavatory facilities must be readily available. If the child is suspected of having a communicable disease, all equipment used by the child must be adequately sanitized after his use.

(5) Housekeeping sink. A housekeeping sink or a substitute acceptable to the health services division shall be provided.

(6) Kitchen facilities. Facilities for the proper storage, preparation and service of food shall be provided to the extent the program requires such functions. All food service facilities and practices shall be in compliance with chapter 248-84 WAC, rules and regulations of the state board of health governing food service sanitation. Kitchen equipment and food preparation procedures shall be approved by the health services division and the office of the state fire marshal. The kitchen shall be inaccessible to children except for planned and supervised activities centering around food preparation and requiring the use of kitchen facilities. [Order 936, § 388-75-448, filed 5/23/74.]

**WAC 388-75-451 Day treatment center—Sewage and liquid wastes.** Sewage and liquid wastes shall be discharged into a public sewage system or into an independent sewage system approved by the local health department. [Order 936, § 388-75-451, filed 5/23/74.]

**WAC 388-75-454 Day treatment center—Pest control.** The premises shall be kept free of flies, cockroaches, and other insects and breeding places therefor. Buildings shall be constructed to prevent the entrance of rodents. Windows and doors used for ventilation shall be appropriately screened. [Order 936, § 388-75-454, filed 5/23/74.]

**WAC 388-75-457 Day treatment center—Laundry.** Adequate laundry and drying equipment shall be

provided unless arrangements are made for commercial laundry services or bedding and clothing are provided and laundered by parents. Laundry equipment shall be located in an area separate from kitchen and child-care areas. Water temperature for laundry must be maintained at a minimum of 160°F. Adequate facilities shall be provided for storage of soiled and clean linen. [Order 936, § 388-75-457, filed 5/23/74.]

**WAC 388-75-460 Day treatment center—Water supply and plumbing.** (1) Water supply shall meet the standards of the health services division. Drinking water shall be convenient to the children's play area. Disposal paper cups, individual drinking cups, or inclined jet type drinking fountains shall be provided. Bubbler type fountains and common drinking cups are prohibited.

(2) All plumbing shall comply with the local plumbing code or, if no such code exists, with the uniform plumbing code of the Western Plumbing Officials Association. Cross-connections are prohibited. [Order 936, § 388-75-460, filed 5/23/74.]

**WAC 388-75-463 Day treatment center—Floors, walls, ceilings, windows.** All painted surfaces accessible to children shall be free of lead. All walls, ceilings and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. Toilet rooms, kitchens, and other rooms subject to excessive soiling or moisture shall have washable, impervious floors. Floor areas used for floor-play shall be draft-free and out of the regular traffic area. In buildings newly constructed, windows shall be placed so children can see outside. [Order 936, § 388-75-463, filed 5/23/74.]

**WAC 388-75-466 Day treatment center—Ventilation—Room temperature—Lighting.** (1) Rooms used for the care of children shall be well ventilated. Inside toilets, bathrooms, and housekeeping closets shall be vented by mechanical exhausts directly to the outside air.

(2) Room temperatures shall be maintained from 68°F to 74°F while children are under care. This provision shall not be construed to require air conditioning, although such is recommended during hot weather.

(3) Lighting fixtures shall be selected and located to provide for the comfort and safety of the residents. Lighting intensity shall be at least 15 foot-candles for all rooms and areas except classrooms and reading areas which shall be 30 foot-candles. [Order 936, § 388-75-466, filed 5/23/74.]

**WAC 388-75-469 Day treatment center—Fire safety.** The agency shall comply with appropriate rules and regulations adopted by the state fire marshal. [Order 936, § 388-75-469, filed 5/23/74.]

**WAC 388-75-503 Group home.** The rules in WAC 388-75-506 through 388-75-584 apply exclusively to the licensing of a group home as defined in WAC 388-75-015(2)(a). In addition WAC 388-75-003 through 388-75-090 are applicable to the extent pertinent to a group home. [Order 936, § 388-75-503, filed 5/23/74.]



**WAC 388-75-506 Group home—Description.** A group home is a dwelling for the care of a group of not more than ten children and which is usually indistinguishable from nearby homes or apartments, is not part of an institutional campus, nor one of a group of child care units in one building. It is generally more dependent upon community services than is a child care institution in meeting the total needs of the children in care. It is differentiated from the usual foster family homes in that it is not necessarily the "family abode" of the person or persons under whose direct care and supervision the children are placed; it usually cares for a larger number of children and provides more specialized program and care than most foster homes and is always under the direct supervision of another licensed child care agency, board, or a recognized social agency. When on duty, the child care staff shall devote their full energies to the operation of the group home. [Order 936, § 388-75-506, filed 5/23/74.]

**WAC 388-75-509 Group home—Function.** A group home serves children who:

(1) Need foster care but who cannot ordinarily adjust to the close, personal relationships normally required by a foster family home;

(2) Leave an institutional setting for a transitional period of care prior to returning to their own home, or prior to achieving independence — job, armed services, college;

(3) Need emergency placement pending more permanent planning or during temporary disruption of a current placement;

(4) Are emotionally disturbed or physically or mentally handicapped, or whose behavior is so bizarre as to be unacceptable to most foster parents, provided that the agency, through its own program or by the marshalling of appropriate community resources, can provide the necessary specialized services that may be required by the group which the facility serves. [Order 936, § 388-75-509, filed 5/23/74.]

**WAC 388-75-512 Group home—Governing or advisory board.** A group home shall be conducted under the auspices of a properly constituted governing board or an advisory board which shall be broadly representative of the community and groups served by the agency. Such boards shall be responsible for, or advise licensee on, program development and evaluation, policy formulation, staffing and general operation of the agency's program and for assuring adequate financial support and fiscal responsibility. [Order 936, § 388-75-512, filed 5/23/74.]

**WAC 388-75-515 Group home—Personnel—General qualifications.** All staff and volunteers shall be persons of good character and emotional stability. They shall have the understanding, ability, personality and physical health suited to meet the physical, mental, emotional and social needs of the children. They shall not have been convicted of any offense against children, for example, child abuse, neglect, or sexual abuse. The licensee shall provide for all persons working directly

with the children in care orientation related to the special needs of the children. [Order 936, § 388-75-515, filed 5/23/74.]

**WAC 388-75-518 Group home—Tuberculosis tests for staff.** Each person working with children shall have tuberculosis screening upon beginning such work or within the immediately prior two-year period and every two years thereafter. Persons whose tuberculin skin tests have previously been positive or who are over 50 years of age shall have such tuberculosis screening in the form of a chest X-ray. Persons under 50 years of age who have no knowledge of previous positive tuberculin skin test shall have an intermediate purified protein derivative tuberculin skin test (Mantoux method) or a multiple puncture tuberculin skin test (by techniques such as a Tine test or Stern test) which shall, if positive, be confirmed by an intermediate purified protein derivative tuberculin test (Mantoux). If a Mantoux skin test is positive (as indicated by 10 millimeters of induration), an immediate chest X-ray and subsequent biennial chest films are required. Persons having a history of previous tuberculosis infection shall present a statement from a physician that their tuberculosis infection is inactive and noncommunicable, and they shall have annual chest X-rays. Proof of current negative skin test or X-ray interpreted as negative for tuberculosis shall be on file in the agency. [Order 936, § 388-75-518, filed 5/23/74.]

**WAC 388-75-521 Group home—Required positions.** An agency shall provide staff in accordance with the following requirements:

(1) A staff member who shall be responsible for the general management and administration of the agency's program. This person shall be at least 21 years of age and possess ability to understand the role of the agency in meeting the needs of children and to work with representatives of appropriate agencies. This person shall have had a degree from a four-year college or university in one of the helping professions (social work, sociology, counseling education, psychology, nursing, or closely allied field); or shall have had a minimum of two years experience working in a group care facility or as a foster parent with a letter of recommendation from the licensing agency and/or supervising agency.

(2) There shall be a staff member on the premises at all times for the care, supervision and guidance of the children in care. During peak resident hours, for example, before and after school, evenings and weekends, the group home shall normally have two staff members on duty. Exceptions may be made depending on the number and characteristics of the children in care. Whenever only one person is on duty, there shall be provisions for a second person to be on call in case of an emergency.

(a) Such staff shall be at least 18 years of age; if under the age of 21, they shall be under the immediate supervision of a staff member who is at least 21 years of age.

(b) "On duty" staff may include staff who sleep in the group home but who are available to the children as needed during the nighttime hours.

(3) Staff whose primary function is the care and supervision of the children may also serve as cook and perform maintenance duties provided that adequate care and supervision of the children is maintained. Additional staff may be required depending upon the nature of the problems of the children under care.

(4) There shall be sufficient relief staff to enable the regular staff to have the equivalent of two days off per week.

(5) Professional social services shall be provided by persons having not less than one year of successful graduate training in a recognized school of social work, or one year graduate level training from a recognized college or university in fields such as counseling, clinical psychology or closely allied discipline. This person shall be a separate staff person and shall be responsible for intake, treatment plan, quarterly evaluation and discharge of all children.

(6) An agency which does not employ professional social service staff:

(a) Shall employ other persons to carry out social work responsibilities provided that such persons have at least a bachelor's degree and are under supervision of a person having a master's degree (or two years of graduate study) from a recognized graduate school of social work or equivalent graduate level training, or

(b) Shall enter into a written agreement with another licensed child care agency or a recognized social agency in the provision of casework and related social services. This agreement shall clearly outline the responsibility and duties of the agency and social agency. The home shall accept and retain only the children assigned by the social agency in keeping with the general provision of an agreement or employment contract with such social agency. [Order 936, § 388-75-521, filed 5/23/74.]

**WAC 388-75-524 Group home—Social service.**

(1) A written social study shall serve as the basis for each child's admission to care. Consideration shall include the needs of the referred child as well as that of the children already in care.

(2) The agency shall follow a written plan of care and treatment related to the behavior, attitudes, potentials, strengths and needs of each child and his family. No person shall remain in care who cannot be effectively served by the program or who can be served more appropriately by another available type of care. Appropriate follow-up services on discharge shall be arranged in accordance with the individual needs and desires of the child and his family.

(3) All records shall be treated confidentially by both staff and board members and used only in the best interests of the child. [Order 936, § 388-75-524, filed 5/23/74.]

**WAC 388-75-527 Group home—Education.** The agency shall assume responsibility for arranging and maintaining a suitable educational plan with the school district for each child in care. The agency shall provide suitable study facilities. [Order 936, § 388-75-527, filed 5/23/74.]

**WAC 388-75-530 Group home—Economic experiences.** Each child shall be given a regular allowance based on his age, needs and ability to handle money. Work assignments, paid or unpaid, shall be made according to each child's ability and capacity. All earnings and allowances shall be accounted for in a ledger maintained for this purpose. When a child is discharged, he shall be permitted to take his personal belongings and all of his money, or be fully informed about the transfer of his money to another appropriate agency. [Order 936, § 388-75-530, filed 5/23/74.]

**WAC 388-75-533 Group home—Spiritual training.** The opportunity for religious instruction and experience in keeping with the affiliations or expressed wishes of the child and his parents shall be facilitated. [Order 936, § 388-75-533, filed 5/23/74.]

**WAC 388-75-536 Group home—Community contacts.** The agency program shall be organized as an integral part of the community in which it is located. Children shall be encouraged to participate in school functions, recreational activities, and other community affairs, insofar as their adjustment permits. [Order 936, § 388-75-536, filed 5/23/74.]

**WAC 388-75-539 Group home—Discipline.** (1) Disciplinary policies shall be stated in writing. Discipline shall be a staff responsibility and shall not be prescribed or administered by children. Discipline shall be based on an understanding of the individual child's needs and stage of development and shall be designed to help the child develop inner control, acceptable behavior and respect for the rights of others.

(2) Discipline shall be fair, reasonable, consistent and related to the child's behavior. Cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline shall not be administered. [Order 936, § 388-75-539, filed 5/23/74.]

**WAC 388-75-542 Group home—Clothing.** Clothing shall be neat, seasonable and of such quality and design as to foster self-respect and be in keeping with that worn by persons of comparable age in the community. Items needed for good grooming and personal hygiene shall be provided. [Order 936, § 388-75-542, filed 5/23/74.]

**WAC 388-75-545 Group home—Required rooms, areas and equipment.** There shall be rooms and areas of sufficient size and properly equipped to accommodate the number of children served. The following rooms or areas shall be provided:

(1) Bedrooms. Every bedroom shall be an outside room permitting entrance of natural light. Separate sleeping quarters shall be furnished for each sex for children over five years of age. Multiple occupancy bedrooms shall provide not less than fifty square feet of floor area (exclusive of closets) per occupant. There shall be not less than three feet laterally between beds. Single occupancy bedrooms shall provide at least eighty square feet of floor space. At no time shall there be

more than one person per bed. There shall be at least one separate bedroom for children needing privacy and which can be made available for temporary isolation in case of illness. Such rooms shall contain or be near handwashing and toilet facilities, in an area separate from that used by the rest of the group.

(a) Each bedroom shall contain for each child a chest of drawers or other adequate storage space and a bed with a clean, firm mattress which provides for proper body alignment and comfort and a pillow. The mattress and pillow shall be covered with water proof material on all sides. Doubledeck bunk beds are prohibited for use by preschool age children and handicapped persons. Each bed shall have adequate clean bedding and linen which shall be laundered weekly. Hallways, unfinished attics and basements, and rooms commonly used for other than bedroom purposes shall not be used as sleeping quarters.

(2) Storage space. Suitable space shall be provided for storage of children's clothing and other possessions; play equipment, records and files; bedding; cleaning equipment and supplies; first aid equipment. Potentially hazardous products shall be appropriately stored and protected depending on the age and/or physical and mental ability of children in care.

(3) Living room. There shall be at least one comfortably furnished living room.

(4) Dining area. An attractive dining area shall be provided of sufficient capacity to accommodate the group comfortably.

(5) Staff quarters. Rooms for staff on night supervision shall be separate from but in proximity to the sleeping rooms of the children.

(6) Bathroom facilities. There shall be at least one tub or shower and one lavatory with hot and cold running water and one indoor flush-type toilet, in addition to one toilet and lavatory which can be made available as needed for illness. Soap and paper towels in approved dispensers (or individual cloth towels for each child) shall be provided at each lavatory. Common towels are prohibited. Hot water for bathing shall not exceed 120°F except that it shall not exceed 110°F for children under six and/or the severely handicapped.

(a) All bathing facilities shall have a conveniently located grab bar, unless other safety measures such as nonskid pads are approved by the health services division.

(7) Kitchen facilities for the proper storage, preparation and service of food. All food service facilities and practices shall be in compliance with chapter 248-84 WAC, rules and regulations of the state board of health governing food service sanitation. Children may participate in food preparation if under proper supervision.

(8) Laundry. Adequate laundry and drying equipment shall be provided unless arrangements are made for commercial laundry service. Laundry equipment shall be located in an area separate from kitchen, dining, and living areas. Adequate facilities shall be provided for storage of soiled and clean linen. [Order 936, § 388-75-545, filed 5/23/74.]

**WAC 388-75-548 Group home—Site and communication.** The group home shall be located on a well-drained site in an area free from hazardous conditions and accessible to other facilities necessary to carry out its program. There shall be at least one telephone on the premises. Adequate and safe outdoor play areas shall be provided for children. [Order 936, § 388-75-548, filed 5/23/74.]

**WAC 388-75-551 Group home—Safety and maintenance.** The physical plant, premises and equipment shall be maintained in a clean and sanitary condition, free of hazards and in good repair. Stairways shall be provided with a handrail. Depending on the age and/or physical and mental ability of the child, handrails on both sides may be required. Screens or other satisfactory protection shall be provided for fireplaces, hot pipes, windows, electric fans, drainage ditches, swimming pools, etc. Emergency lighting facilities in operational condition, such as flashlights, shall be available. The use of firearms shall be properly controlled. [Order 936, § 388-75-551, filed 5/23/74.]

**WAC 388-75-554 Group home—Sewage and liquid wastes.** Sewage and liquid wastes shall be discharged into a public sewage system or into an independent sewage system approved by the local health department. [Order 936, § 388-75-554, filed 5/23/74.]

**WAC 388-75-557 Group home—Pest control.** The premises shall be kept free from flies, cockroaches, and other insects and breeding places therefor. Buildings shall be constructed to prevent the entrance of rodents. Windows and doors used for ventilation shall be appropriately screened. [Order 936, § 388-75-557, filed 5/23/74.]

**WAC 388-75-560 Group home—Water supply and plumbing.** (1) Water supply shall meet health services division standards. Disposable paper cups, individual drinking cups, or inclined jet type drinking fountains shall be provided. Bubbler type fountains and common drinking cups are prohibited.

(2) Plumbing shall comply with the local plumbing code or, if no such code exists, with the uniform plumbing code of the International Association of Plumbing and Mechanical Officials. Cross connections are prohibited. [Order 936, § 388-75-560, filed 5/23/74.]

**WAC 388-75-563 Group home—Floors, walls, and ceilings.** All walls, ceilings and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. Toilet rooms, kitchens and other rooms subject to excessive soiling or moisture shall have washable impervious floors. [Order 936, § 388-75-563, filed 5/23/74.]

**WAC 388-75-566 Group home—Ventilation.** Ventilation by windows or mechanical means of all rooms shall be sufficient to remove objectionable odors and prevent condensation. Inside toilets, bathrooms and

housekeeping closets shall be vented by mechanical exhausts directly to the outside. [Order 936, § 388-75-566, filed 5/23/74.]

**WAC 388-75-569 Group home—Room temperature.** Room temperature shall be maintained from 68°F to 74°F during the day, and not less than 60°F at night. [Order 936, § 388-75-569, filed 5/23/74.]

**WAC 388-75-572 Group home—Lighting.** Lighting fixtures shall be selected and located for the comfort and safety of the children. Lighting intensity shall be at least ten foot-candles for all rooms and areas except classrooms and reading areas which shall be 30 foot-candles. [Order 936, § 388-75-572, filed 5/23/74.]

**WAC 388-75-575 Group home—Food and food services.** Food shall be served in accordance with the current Recommended Dietary Allowances of the Food and Nutrition Board, National Research Council, adjusted for age, sex, and activity of each person. Menus shall be planned and written in advance and kept on file for six months. Substitutes of comparable food value may be used for specific items in the planned menu. Substitutions must be shown on the written menu. Three or more meals shall be served each day. Between-meal snacks shall be provided and may be part of the daily food needs and shall be recorded on the menu. The use of raw milk is prohibited. [Order 936, § 388-75-575, filed 5/23/74.]

**WAC 388-75-578 Group home—Health program—Medical service for children.** (1) There shall be readily available to the staff written medical policies and procedures including standing orders for first aid, care of minor acute illnesses and action to be taken in event of medical emergencies. These shall be developed with the advice and approval of a licensed physician or medical board.

(2) First aid supplies as needed to conform to written policies shall be readily available. Whenever preschool children are cared for, first aid supplies shall include syrup of ipecac. A staff member who has completed a basic Red Cross first aid course or its equivalent shall be present at all times.

(3) The children's physician, or if not reasonably available, the agency's advisory physician shall be consulted in event of medical need.

(4) Each child shall be brought under a system of health supervision that provides for:

(a) Within 10 days before or after admission a child shall have a complete physical examination. If a physical examination was done more than 10 days prior to admission, the advisory physician or the child's private physician may waive a physical examination. There shall be on file in the group home a written record of this decision signed by the physician. A record of the last physical examination findings shall be kept on file in the group home and the agency shall follow up on the physician's recommendations.

(b) A plan for meeting ordinary health supervision needs and special health needs if indicated.

(5) Immunizations will be completed or brought up to date according to the current recommendations of the American Academy of Pediatrics unless contraindicated for individual children according to the physician's recommendation, or unless the parent or guardian expresses religious, intellectual or philosophical objections by signing a statement to this effect. [Order 936, § 388-75-578, filed 5/23/74.]

**WAC 388-75-581 Group home—Health records for children.** Records giving the following information on each child shall be maintained in the group home. They shall be available to personnel responsible for the child.

(1) Identifying information, including child's full name, birthdate, and dates of admission and discharge.

(2) Full names, addresses, and telephone numbers (home and business) of parents or responsible person, physician and other persons to be contacted in case of emergency.

(3) Dates and kinds of illnesses and accidents, medications, and treatments prescribed and time they are given and by whom; periodic height and weight, and dates and types of immunization, and other pertinent information relating to the child's health.

(4) Written parental consent or a court order for providing medical care and emergency surgery. [Order 936, § 388-75-581, filed 5/23/74.]

**WAC 388-75-584 Group home—Fire safety.** The agency shall comply with appropriate rules and regulations adopted by the state fire marshal. [Order 936, § 388-75-584, filed 5/23/74.]

**WAC 388-75-603 Child care institution.** The rules in WAC 388-75-606 through 388-75-681 apply exclusively to the licensing of a child care institution as defined in WAC 388-75-015(2)(b). In addition, WAC 388-75-003 through 388-75-090 are applicable to the extent pertinent to a child care institution. [Order 936, § 388-75-603, filed 5/23/74.]

**WAC 388-75-606 Child care institution—Governing or advisory board.** A child care institution shall be conducted under the auspices of a properly constituted governing board or an advisory board which shall be broadly representative of the community and groups served by the agency. Such boards shall be responsible for, or advise licensee on, program development and evaluation, policy formulation, staffing and general operation of the agency's program and for assuring adequate financial support and fiscal responsibility. [Order 936, § 388-75-606, filed 5/23/74.]

**WAC 388-75-609 Child care institution—Personnel—General qualifications.** All staff and volunteers shall be persons of good character and emotional stability. They shall have the understanding, ability, physical health, and personality suited to meet the physical, mental, emotional and social needs of the children. They shall not have been convicted of any offense against children, for example, child abuse, neglect, or sexual abuse. The licensee shall provide for all persons

working directly with the children in care, orientation related to the special needs of the children. [Order 936, § 388-75-609, filed 5/23/74.]

**WAC 388-75-612 Child care institution—Tuberculosis tests for staff.** Each person working with children shall have tuberculosis screening upon beginning such work or within the immediately prior two-year period and every two years thereafter. Persons whose tuberculin skin tests have previously been positive or who are over 50 years of age shall have such tuberculosis screening in the form of a chest X-ray. Persons under 50 years of age who have no knowledge of previous positive tuberculin skin test shall have an intermediate purified protein derivative tuberculin skin test (Mantoux method) or a multiple puncture tuberculin skin test (by techniques such as a Tine test or Stern test) which shall, if positive, be confirmed by an intermediate purified protein derivative tuberculin test (Mantoux). If a Mantoux skin test is positive (as indicated by ten millimeters of induration), an immediate chest X-ray and subsequent biennial chest films are required. Persons having a history of previous tuberculosis infection shall present a statement from a physician that their tuberculosis infection is inactive and noncommunicable, and they shall have annual chest X-rays. Proof of current negative skin test or X-ray interpreted as negative for tuberculosis shall be on file in the agency. [Order 936, § 388-75-612, filed 5/23/74.]

**WAC 388-75-615 Child care institution—Personnel—Required positions.** An agency shall provide staff in accordance with the following:

(1) An executive who shall be responsible for the administration of the agency's program. The executive shall be at least 21 years of age and shall possess demonstrable administrative and leadership ability, maturity, good judgment, and understanding of the role of the agency in meeting the needs of children, and ability to work with others.

(2) Child care staff whose primary duties are the care, supervision, and guidance of children. Such staff shall be at least 18 years of age. Staff under 21 years of age shall be under the immediate supervision of staff who are at least 21 years of age.

(a) During the waking hours of the children there shall be at least one child care staff member on duty for every eight children or major fraction (five or more) of such number of children on the premises.

(b) During sleeping hours there shall be at least one adult in proximity to the children. The director and auxiliary staff may serve as child care staff when not involved in other duties provided the required number of child care staff is maintained.

(c) Normally whenever more than ten children are on the premises at least two adults shall be on duty. "On duty" staff may include staff who sleep in the institution and who are available to the children as needed during the nighttime hours.

(d) Agencies caring for very young children or for children presenting emotional disturbance, physical

handicaps or mental retardation shall provide such additional child care staff as the situation requires.

(3) Auxiliary staff sufficient to insure properly prepared meals and clean premises.

(4) Relief staff to enable all staff to have the equivalent of two days off a week.

(5) An advisory physician. The agency shall arrange for the services of an advisory physician who shall be responsible for assisting in the development, periodic review and approval of the agency's health policies, procedures and practices and who shall be available in the event of medical emergencies.

(6) Nursing service for the care of chronically ill or severely handicapped persons – see WAC 388-75-651.

(7) Social service staff. The agency shall provide or arrange for social services.

(a) Duties. There shall be a minimum of one full-time social service staff member for every 25 children in residence, who shall provide intake services, ongoing social services, discharge, and outpatient service to the child and his family as appropriate on the basis of the treatment plan. The use of parttime staff at the convenience of the agency is permitted.

(b) Qualifications. Social services staff must have at least a bachelor's degree, including six quarter hours from an accredited college or university in child and adolescent growth and development classes. One year's experience as child care staff in a licensed child care agency may be substituted for the six quarter hours of child growth and development.

(c) Supervision. Unless the social service staff member has a master of social work degree or the equivalent graduate level training in an allied field, he must be under the direct supervision of a master of social work or equivalent as defined above for a minimum of two hours per week per social service staff member. [Order 936, § 388-75-615, filed 5/23/74.]

**WAC 388-75-618 Child care institution—Staff training.** The agency shall provide in-service and other training opportunities as will best enable the child care staff to carry out the agency's program with the children. Child care staff shall be encouraged to attend appropriate and reasonable available workshops and academic courses in the field of child care. [Order 936, § 388-75-618, filed 5/23/74.]

**WAC 388-75-621 Child care institution—Discipline.** (1) Disciplinary policies shall be stated in writing. Discipline shall be a staff responsibility and shall not be prescribed or administered by children. Discipline shall be based on an understanding of the individual child's needs and stage of development and shall be designed to help the child develop inner control, acceptable behavior and respect for the rights of others.

(2) Discipline shall be fair, reasonable, consistent and related to the child's behavior. Cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline shall not be administered. [Order 936, § 388-75-621, filed 5/23/74.]

**WAC 388-75-624 Child care institution—Social service.** (1) A written, diagnostic social study of each child and his family shall be made or evaluated by the agency's social service staff as the basis for the child's admission into a program of service that most nearly meets the child's need.

(2) The agency shall follow a written plan of care and treatment related to the particular needs of each child and his family. No child shall be admitted or remain in group care who can be effectively treated and cared for in a non-institutional setting. Appropriate follow-up services on discharge shall be provided in accordance with the individual needs and desires of the child and his family.

(3) All records shall be treated confidentially and used only in the best interests of the child. [Order 936, § 388-75-624, filed 5/23/74.]

**WAC 388-75-627 Child care institution—Education.** In cooperation with local school personnel, the agency shall assume responsibility for arranging an appropriate educational plan for each child under care. An educational program operated directly by the agency shall be operated in compliance with regulations set forth by the state board of education. The agency shall provide suitable study facilities. [Order 936, § 388-75-627, filed 5/23/74.]

**WAC 388-75-630 Child care institution—Economic experiences.** (1) Each child shall be given a regular allowance based on his age, needs and ability to handle money. Work assignments, paid or unpaid, shall be made according to each child's ability and capacity.

(2) All earnings and allowances shall be accounted for in a ledger maintained for this purpose.

(3) When a child is discharged he shall be permitted to take his personal belongings and all of his money, or be fully informed about the transfer of his money from the agency to another placement. An adequate system of marking personal belongings shall be maintained. [Order 936, § 388-75-630, filed 5/23/74.]

**WAC 388-75-633 Child care institution—Clothing.** Clothing of the child shall be neat, seasonable and of such quality and design as to foster self-respect and be in keeping with that worn by children of comparable age in the community. Items needed for good grooming and personal hygiene shall be provided. [Order 936, § 388-75-633, filed 5/23/74.]

**WAC 388-75-636 Child care institution—Community contacts.** The agency program shall be organized as an integral part of the community in which it is located. Children shall be encouraged to participate in school functions, recreational activities, and other community affairs, insofar as their adjustment permits. [Order 936, § 388-75-636, filed 5/23/74.]

**WAC 388-75-639 Child care institution—Spiritual training.** As part of the intake plan the opportunity for religious instruction and experience in keeping with the affiliations or expressed wishes of the child and his

parents shall be explored and facilitated. [Order 936, § 388-75-639, filed 5/23/74.]

**WAC 388-75-642 Child care institution—Food and food services.** Food shall be served in accordance with the recommended dietary allowances of the food and nutrition board, national research council, adjusted for age, sex and activity of each person. Menus, including snack, shall be planned and written at least one week in advance and kept on file for six months. Substitutes of comparable food value may be used for specific items in the planned menu. All substitutes must be written into the previously planned menu. Three or more meals shall be served each day. Between-meal snacks shall be provided and may be part of the daily food needs. The use of raw milk is prohibited. [Order 936, § 388-75-642, filed 5/23/74.]

**WAC 388-75-645 Child care institution—Health service.** (1) There shall be readily available to the staff written medical policies and procedures including standing orders for first aid, care of minor acute illnesses, and action to be taken in event of medical emergencies. These shall be developed with the advice and approval of a licensed physician or medical board.

(2) First-aid supplies as needed to conform to written policies shall be readily available. A person who has completed a basic Red Cross first-aid course or its equivalent shall be available at all times.

(3) The child's physician, or if not reasonably available, the agency advisory physician shall be consulted in event of medical need.

(4) Each child shall be brought under a system of health supervision that provides for:

(a) A physical examination within ten days before or after admission. If a physical examination was done prior to ten days before admission, the advisory physician or the child's private physician may waive a physical examination. There shall be on file in the agency a written record of this decision signed by the physician. A record of the last physical examination findings shall be kept on file in the agency and the agency shall follow up on the physician's recommendations. A medical recheck shall be done annually or more often if indicated by the child's age or physical condition.

(b) A plan for meeting ordinary health supervision needs and special health needs if indicated.

(5) Immunizations shall be completed or brought up to date according to the current recommendations of the American Academy of Pediatrics unless contraindicated for individual children according to the physician's recommendation, or unless the parent or guardian expresses religious, intellectual or philosophical objections by signing a statement to this effect. [Order 936, § 388-75-645, filed 5/23/74.]

**WAC 388-75-648 Child care institution—Health records.** Records giving the following information on each child shall be maintained in the agency:

(1) Identifying information, including child's full name, birthdate, and dates of admission and discharge.

(2) Full names, addresses, and telephone numbers (home and business) of parents or responsible person, physician and other persons to be contacted in case of emergency.

(3) Dates and kinds of illnesses and accidents, medications, and treatments prescribed and time they are given and by whom, periodic height and weight, and dates and types of immunization, and other pertinent information relating to the child's health.

(4) Written parental consent (or court order) for providing medical care and emergency surgery. [Order 936, § 388-75-648, filed 5/23/74.]

**WAC 388-75-651 Child care institution—Nursing service.** Facilities having as their major purpose the care of chronically ill or severely handicapped children shall make arrangements for nursing consultation by a registered nurse currently licensed by the state of Washington. Her name, address, and telephone number shall be readily available. The nurse shall assist the agency in implementing a program which provides for periodic health supervision of all children and for follow-up care of special health needs as identified by the child's physician or noted by agency personnel. The nurse shall advise and assist non-medical personnel in maintaining medical records, meeting daily health needs and caring for children with minor illnesses and injuries. [Order 936, § 388-75-651, filed 5/23/74.]

**WAC 388-75-654 Child care institution—Site and communication.** The agency shall be located on a well-drained site in an area free from hazardous conditions and accessible to other facilities necessary to carry out its program. There shall be at least one telephone on the premises. Adequate outdoor play area shall be provided appropriate to the age and mobility of the children involved. [Order 936, § 388-75-654, filed 5/23/74.]

**WAC 388-75-657 Child care institution—Safety and maintenance.** The physical plant, premises and equipment shall be maintained in a clean and sanitary condition, free of hazards and in good repair. Stairways shall be provided with a handrail. Depending upon the age and/or physical and mental ability of the children, handrails on both sides may be required. Screens or other satisfactory protection shall be provided for fireplaces, hot pipes, windows, electric fans, drainage ditches, swimming pools, etc. Emergency lighting facilities in operational condition, such as flashlights, shall be available. The use of firearms shall be properly controlled. [Order 936, § 388-75-657, filed 5/23/74.]

**WAC 388-75-660 Child care institution—Required rooms, areas and equipment.** There shall be rooms and areas of sufficient size and properly equipped to accommodate the number of children served. Space shall be so arranged as to facilitate supervision of children and to avoid any traffic through sleeping rooms and excessive and undesirable traffic through other rooms. The following rooms or areas shall be provided:

(1) Bedrooms. In new construction sleeping rooms shall not accommodate more than four children. Every

bedroom shall be an outside room permitting entrance of natural light. Separate sleeping quarters shall be furnished for each sex for children over five years of age. Multiple occupancy bedrooms shall provide at least 70 square feet of floor area (exclusive of closets) per occupant. There shall be not less than three feet laterally between beds. Single occupancy bedrooms shall provide at least 80 square feet of floor space. Each bedroom shall contain for each child adequate storage space, and a bed or bunk with a clean, firm mattress which provides for proper body alignment and comfort, and a clean pillow. Waterproof mattress and pillow protectors and clean linen and bedding shall be provided for each bed.

(2) Storage space. Suitable space shall be provided for storage of children's clothing and other possessions; play equipment; records and files; bedding; cleaning equipment and supplies; first-aid equipment. Potentially hazardous products shall be appropriately stored and protected depending on the age and/or physical and mental ability of children in care.

(3) Living room. There shall be at least one living room comfortably furnished to provide a homelike atmosphere.

(4) Recreation area. When there are twelve or more occupants, at least one separate indoor area shall be provided, sufficient in size and location, for recreational and informal education activities.

(5) Classrooms. Suitable space shall be provided when academic instruction is given in the institution.

(6) Dining area. An attractive dining area shall be provided of sufficient capacity to accommodate the resident group comfortably.

(7) Staff quarters. Rooms for staff on night supervision shall be in proximity to the sleeping rooms of children.

(8) Offices. There shall be a room or area that can be used as an administrative office. Suitable offices shall be provided for social service staff. In institutions caring for fewer than fifteen children such offices may be combined with the administrative office.

(9) Visiting area. There shall be space provided where privacy can be achieved for the use of visitors.

(10) Toilets, lavatories and bathing facilities.

(a) Bathing facilities, indoor flush type toilets enclosed in cubicles and lavatories with hot and cold running water shall be provided with separation for sexes in a ratio of one bathing facility, one toilet, and one lavatory for every eight children or major portion (five or more) of such number, in addition to toilet and lavatory facilities required for isolation room. Soap and paper towels in approved dispensers (or individual cloth towels for each child) shall be provided at each lavatory. Common towels are prohibited. Hot water for bathing shall not exceed 120°F except that it shall not exceed 110°F for children under six years of age and/or the severely handicapped. All bathing facilities shall have adequate grab bars in convenient places, unless other safety measures such as nonskid pads are approved by the health services division.

(b) In new construction bathroom(s) shall be designated for the sole use of staff and/or adults.

(11) Special care room. There shall be at least one single-bed room for the care of a child who needs temporary separation from the group because of an emotional upset, injury, or illness. Such room shall contain or be adjacent to separate handwashing and toilet facilities for this room. Such room and facilities may be used for other purposes when not needed for isolation, provided they are properly sanitized between uses.

(12) Kitchen facilities for the proper storage, preparation and service of food. All food service facilities and practices shall be in compliance with chapter 248-84 WAC, rules and regulations of state board of health governing food service sanitation. Residents may participate in food preparation provided it is part of an ongoing supervised program.

(13) Housekeeping closet. A service sink and a housekeeping closet equipped with shelving shall be provided.

(14) Laundry. Adequate laundry and drying equipment shall be provided unless arrangements are made for commercial laundry service. Laundry equipment shall be located in an area separate from kitchen, dining, and living areas. Adequate facilities shall be provided for storage of soiled and clean linen. Soiled diapers shall be placed, without rinsing, into separate, easily cleanable containers provided with waterproof liners, prior to transport to laundry. If disposable diapers are used, they shall be incinerated daily in an approved incinerator. [Order 936, § 388-75-660, filed 5/23/74.]

**WAC 388-75-663 Child care institution—Sewage and liquid wastes.** Sewage and liquid wastes shall be discharged into a public sewage system or into an independent sewage system approved by the the local health department. [Order 936, § 388-75-663, filed 5/23/74.]

**WAC 388-75-666 Child care institution—Pest control.** The premises shall be kept free from flies, cockroaches, and other insects and breeding places therefor. Buildings shall be constructed to prevent the entrance of rodents. Windows and doors used for ventilation shall be appropriately screened. [Order 936, § 388-75-666, filed 5/23/74.]

**WAC 388-75-669 Child care institution—Water supply and plumbing.** (1) Water supply shall meet health services division standards. Drinking water shall be convenient to the children's play area. Disposable paper cups, in a dispenser, individual drinking cups, or inclined jet type drinking fountains shall be provided. Bubblers type fountains and common drinking cups are prohibited.

(2) Plumbing shall comply with the local plumbing code or, if no such code exists, with the uniform plumbing code of the Western Plumbing Officials Association. Cross-connections are prohibited. [Order 936, § 388-75-669, filed 5/23/74.]

**WAC 388-75-672 Child care institution—Floors, walls, and ceilings.** All walls, ceilings and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. Toilet rooms, kitchens and other rooms subject to excessive soiling or moisture shall have

washable impervious floors. [Order 936, § 388-75-672, filed 5/23/74.]

**WAC 388-75-675 Child care institution—Ventilation.** Ventilation by windows or mechanical means of all rooms shall be sufficient to prevent objectionable odors and condensation. Inside toilets, bathrooms, and housekeeping closets shall be vented by mechanical exhausts directly to the outside air. [Order 936, § 388-75-675, filed 5/23/74.]

**WAC 388-75-678 Child care institution—Room temperature and lighting.** (1) Room temperature shall be maintained from 68°F to 74°F during the day and not less than 60°F at night.

(2) Heating fixtures shall be selected and located for the comfort and safety of the residents. Lighting intensity shall be at least 15 foot-candles for all rooms and areas except classrooms and reading areas which shall be 30 foot-candles. [Order 936, § 388-75-678, filed 5/23/74.]

**WAC 388-75-681 Child care institution—Fire safety.** The agency shall comply with appropriate rules and regulations adopted by the state fire marshal. [Order 936, § 388-75-681, filed 5/23/74.]

**WAC 388-75-703 Maternity services.** The rules in WAC 388-75-706 through 388-75-793 apply exclusively to the licensing of an agency providing or arranging "maternity service" as defined in WAC 388-75-015(4). In addition WAC 388-75-003 through 388-75-090 are applicable to the extent pertinent to maternity service. [Order 936, § 388-75-703, filed 5/23/74.]

**WAC 388-75-706 Maternity services—Definition.** (1) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement.

(2) The basic purposes of maternity service include provision of physical care, medical care, pre and post-natal social planning for mother and baby, appropriate education and legal assistance as needed. A corollary purpose is to meet the needs of parents in a way which shall enhance their functioning as individuals and as parents. Generally, maternity services are focused on the needs of the unwed mother and her infant. However, married women who can benefit from the program also may be served. Consideration must also be given to the needs and responsibilities and rights of the father of the infant. An infant, for the purpose of these rules, is a child under two years of age; however, the needs of older siblings, if any, must also be considered. The following modalities are commonly used in providing maternity services:

(a) Day programs for mothers. A day program provides pregnant or delivered young women training in child care, help with adjustment problems, counseling and social planning, infant care as needed and academic



or vocational training as appropriate during part of the 24-hour day in a facility suitable for such purposes.

(b) Residential care for mothers and infants. Residential care for a group of mothers and their infants provides a group living facility on a 24-hour basis, guidance, family life education, and child care for residents who need it, and academic and/or vocational training when appropriate.

(c) Foster family home care. Pregnant girls and women and mothers with infants may be placed in properly licensed foster family homes by a licensed maternity service as part of its program when so authorized by the Department.

(d) Residential care for expectant mothers (maternity home). A maternity home serves as a group living facility to provide residential care and treatment on a 24-hour basis to expectant unmarried mothers during the period of their pregnancy and the immediate postpartum period. [Order 936, § 388-75-706, filed 5/23/74.]

**WAC 388-75-709 Maternity services—Eligibility for service—Required services.** (1) Eligibility for service shall not be contingent upon a parent's decision to keep or relinquish her child. RCW 26.36.040 prohibits a maternity service from soliciting clients by offering to place infants for adoption.

(2) Services required herein need not necessarily be provided directly by the licensee in each instance. However, if not provided directly, it is the responsibility of the licensee to arrange for such services through formal agreements with other community resources or to otherwise assist mothers in the program to obtain appropriate and needed services. [Order 936, § 388-75-709, filed 5/23/74.]

**WAC 388-75-712 Maternity services—Governing or advisory board.** A maternity service shall be conducted under the auspices of a properly constituted governing board or an advisory board which shall be broadly representative of the community and groups served by the agency. Such boards shall be responsible for, or advise licensee on, program development and evaluation, policy formulation, staffing and general operation of the agency's program and for assuring adequate financial support and fiscal responsibility. [Order 936, § 388-75-712, filed 5/23/74.]

**WAC 388-75-715 Maternity services—Personnel—General qualifications.** All staff and volunteers shall be persons of good character and emotional stability. They shall have the understanding, ability, physical health and personality suited to meet the physical, mental, emotional and social needs of the persons in care. They shall not have been convicted of any offense against children, for example, child abuse, neglect, or sexual abuse. [Order 936, § 388-75-715, filed 5/23/74.]

**WAC 388-75-718 Maternity services—Staff training.** The agency shall provide a staff development program designed to maintain and improve competency of staff; this shall include appropriate orientation of new

staff to the agency and their jobs. [Order 936, § 388-75-718, filed 5/23/74.]

**WAC 388-75-721 Maternity services—Tuberculosis tests for staff.** (1) Each person working with children shall have tuberculosis screening upon beginning such work or within the immediately prior two-year period and every two years thereafter. Persons whose tuberculin skin tests have previously been positive or who are over 50 years of age shall have such tuberculosis screening in the form of a chest X-ray. Persons under 50 years of age who have no knowledge of previous positive tuberculin skin test shall have an intermediate purified protein derivative tuberculin skin test (Mantoux method) or a multiple puncture tuberculin skin test (by techniques such as a Tine test or Stern test) which shall, if positive, be confirmed by an intermediate purified protein derivative tuberculin test (Mantoux). If a Mantoux skin test is positive (as indicated by ten millimeters of induration), an immediate chest X-ray and subsequent biennial chest films are required.

(2) Persons having a history of previous tuberculosis infection shall present a statement from a physician that their tuberculosis infection is inactive and noncommunicable, and they shall have annual chest X-rays. Proof of current negative skin test or X-ray interpreted as negative for tuberculosis shall be on file in the agency. [Order 936, § 388-75-721, filed 5/23/74.]

**WAC 388-75-724 Maternity services—Required personnel.** (1) A director shall be employed, who shall be a mature person especially equipped by training, experience and personal qualities to insure an effective program, staff development and efficient administration. That person must possess an understanding of the program to be administered and have demonstrated such leadership and supervisory ability as will insure harmonious relationships and effective performance of agency personnel.

(2) Social work staff. The agency shall provide or arrange for social services by persons with at least one year of graduate training in a recognized school of social work or in a related field (psychology, guidance and counseling, etc.). Social service staff who do not have at least one year of graduate training shall be under the supervision of a person having a master's degree in social work or related field.

(a) There shall be a minimum of one full-time social worker for every 25 mothers served by the agency. When social services are provided by an agency other than the operating agency, there shall be a written agreement detailing the scope of service to be provided.

(3) Consultants and other specialists. In all programs qualified specialists in the field of medicine and nursing must be available to provide needed services and/or consultation with staff. Specialists in mental health, education, religion, and law shall also be available as needed for work with agency staff, as well as with the parent. Specialists used by the agency shall meet the full requirements of professional competence in their respective fields.

(a) There shall be a written agreement between the agency and each consultant specifying the conditions of consultation.

(4) Supportive staff. A supportive staff shall be employed as needed to prepare meals and maintain the premises in accord with these requirements. When, by program design, residents are responsible for meal preparation or meals are catered from outside the agency, supportive staff for that purpose is not necessary.

(a) There shall also be sufficient staff to perform clerical and accounting tasks.

(5) Residential staff. Residential programs providing 24-hour care to expectant mothers or to mothers and their infants shall employ residential staff in sufficient numbers to insure that the physical and emotional needs of the residents are met. Residential staff are staff who are in charge of supervision of the day-to-day living situation. Such staff may carry out maintenance tasks which do not detract from their primary function.

(a) Staffing needs vary with the physical arrangement of the plant and characteristics of the residents. Residential staff shall be on duty in a ratio of one such staff to every ten mothers. Additional staff may be required under certain circumstances, depending on the physical plant and characteristics of the residents.

(b) On duty staff may include persons who sleep on the premises but who are available to the residents as needed during the night-time hours. In homes which care for fewer than ten persons, at least one staff shall be physically present with an additional person available "on call" at all times. [Order 936, § 388-75-724, filed 5/23/74.]

**WAC 388-75-727 Maternity services—Guidance and counseling.** (1) All maternity service programs shall provide information and referral service and guidance and counseling to every person who applies for care. The process of admission, placement, supervision and termination of service shall be carried on in accordance with accepted standards of professional social work. When the service of the agency is not appropriate, applicant shall be referred to the agency in the community that best meets his or her needs.

(2) Guidance and counseling may take the form of individual or group counseling sessions. Areas to be included are: living arrangements, medical care planning, legal services, vocational or educational guidance, plans for the child, financial, emotional or psychological problems, relations with parents and unwed father and follow-up for those leaving the program.

(3) Insofar as practical and appropriate, the agency shall work with any persons significant to the client's situation, for example, parents, putative father, etc.

(4) In all programs, a specific time for guidance and counseling shall be arranged for all clients. However, this should not preclude spontaneous contacts. The guidance and counseling function or role should be clearly delineated so that conflict does not arise between social service and other staff. [Order 936, § 388-75-727, filed 5/23/74.]

**WAC 388-75-730 Maternity services—Health education.** All maternity service programs shall make provisions for skilled instruction in the nature and need for post-natal and pediatrics care, contraception, nutritional requirements for mother and child, child health and development, and, for expectant mothers, the hygiene of pregnancy, suitable preparation for childbirth, the physiological and psychological changes which occur, the events and procedures used in examination, and childbirth. [Order 936, § 388-75-730, filed 5/23/74.]

**WAC 388-75-733 Maternity services—Family life education.** All maternity service programs shall provide or arrange for classes in family life such as: human sexuality, budgeting, home management and consumer education, child rearing techniques, early childhood education, and family planning. These may be included in the regular academic program or in addition to those classes provided by the school. [Order 936, § 388-75-733, filed 5/23/74.]

**WAC 388-75-736 Maternity services—Religious activities.** The opportunity for religious instruction and experience shall be facilitated, and the right of freedom of worship will be maintained. Policies of the agency shall permit attendance at the religious services of the mother's choosing. [Order 936, § 388-75-736, filed 5/23/74.]

**WAC 388-75-739 Maternity services—Work assignments.** (1) Work assignments shall be geared to the physical health and emotional well-being of the resident. Assignments to domestic chores are subject to the recommendations of the attending physician for expectant mothers.

(2) Participants of the program shall not be used to carry the responsibility for basic maintenance of the facility and equipment. However, household tasks may be performed insofar as they are appropriate to the program and as part of a planned learning experience. [Order 936, § 388-75-739, filed 5/23/74.]

**WAC 388-75-742 Maternity services—Leisure time activities.** Programs shall be planned so that leisure time is used creatively, to accommodate the need for privacy when required and permit sufficient physical exercise to retain satisfactory body conditioning. Programs for mothers and infants must afford mothers some leisure time apart from their children as well as time with their children. Residents may participate in community functions, sports and recreational activities, and cultural enrichment insofar as their schedules permit. [Order 936, § 388-75-742, filed 5/23/74.]

**WAC 388-75-745 Maternity services—Academic and vocational instruction.** (1) A maternity service providing care to school-age parents who have not completed high school shall provide, or arrange for, accredited instruction either through its own certified teachers, teachers placed in the home by the local school district, attendance in a local or special school, or by correspondence course.

(2) Where an academic program is not appropriate for a particular parent the agency shall provide or arrange for a vocational training program either within or outside the agency. Such training shall be geared to helping the parent attain self-sufficiency. If a parent has job skills, a training program may not be needed, but assistance in obtaining suitable employment shall be provided as appropriate.

(3) Whichever system the agency uses for academic training, the transcript of credits earned or days' attendance must be issued in the name of the school system rather than in the name of the agency. [Order 936, § 388-75-745, filed 5/23/74.]

**WAC 388-75-748 Maternity services—Child care.** Programs serving parents with young children have the responsibility for providing or assisting the parent in arranging for child care when parents are working or in school and at other appropriate times. Provisions shall be made for maximum interaction between mother and child in the child care arrangement. The child care facility, whether within the agency or without, shall meet the appropriate licensing requirements for day care facilities. [Order 936, § 388-75-748, filed 5/23/74.]

**WAC 388-75-751 Maternity services—Economic experiences.** (1) Residential agencies shall arrange for each mother to have a reasonable amount of spending money. This may be in the form of reimbursement for work assignments, or given as an allowance.

(2) When the resident is expected to purchase basic food, clothing, and other necessary items for her use, she shall be paid a sum which will be sufficient to cover those costs. Such a practice is permissible only when the agency provides instruction and counseling in respect to handling of money, home management, and consumer protection.

(3) Whenever money is paid to residents, the agency shall maintain records which reflect such payments and their purpose. [Order 936, § 388-75-751, filed 5/23/74.]

**WAC 388-75-754 Maternity services—Medical service.** (1) Written medical policies including first aid and emergency procedures shall be established with the advice and assistance of a licensed physician or medical advisory group (board or committee).

(2) Each mother and infant shall be under the medical supervision of a physician.

(3) Consultation by specialists shall be provided when requested by the physician.

(4) First aid supplies and equipment shall be provided. In other than a family home, a person who has completed a basic Red Cross first aid course or its equivalent shall be available at all times.

(5) Each resident mother shall have a complete physical examination within ten days prior to or after admission to the program.

(6) For expectant mothers:

(a) Deliveries shall be in a licensed hospital. The length of hospitalization shall depend upon the mother's

physician and the facilities and nursing care available in the maternity home.

(b) Postpartum medical examinations shall be provided at the end of six weeks and earlier, if indicated. An entry shall be made in mother's record to indicate the date of the postpartum examination and name of the examining physician. If a postpartum examination is not provided, the record should indicate the reasons.

(c) No expectant mother who has a known or suspected infectious disease shall be admitted to group care. When there is not adequate provision for isolation of an expectant mother who has a known or suspected infectious disease, she shall be transferred from the facility. [Order 936, § 388-75-754, filed 5/23/74.]

**WAC 388-75-757 Maternity services—Records—Record keeping.** (1) Each maternity service shall maintain a consistent system of information gathering and maintenance. The policies of the agency in respect to record keeping shall be in writing and made known to all employees.

(2) An individual record shall be established for each resident or recipient of service at the time of acceptance for service and maintained until service is terminated. It shall contain the following data:

(a) Evidence of legal status of mother and that the agency has legal authority to provide service,

(b) Sufficient social and background information to indicate that service is needed and appropriate,

(c) Ongoing entries or summaries by agency staff which reflect progress, or lack of progress, at least quarterly,

(d) A clear statement of the plans, goals, or treatment objectives at least quarterly,

(e) An evaluative statement at the termination of service which indicates reason for termination. [Order 936, § 388-75-757, filed 5/23/74.]

**WAC 388-75-760 Maternity services—Medical records.** A health record shall be kept in the agency for each mother and child and shall contain the following information:

(1) Name,

(2) Attending physician, address, the phone number,

(3) Expected date of delivery,

(4) Hospital for delivery care,

(5) Medication, diet, and treatment prescribed, and medications and treatments administered and the time they are given and by whom,

(6) Report of any accident to the resident while under supervision in the home,

(7) Other pertinent information, for example, diabetes, epilepsy, allergies,

(8) In the case of a minor, written parental consent (or court order) for the provision of medical care and emergency surgery. [Order 936, § 388-75-760, filed 5/23/74.]

**WAC 388-75-763 Maternity services—Site and communication.** (1) The facility shall be located on a well-drained site in an area free from hazardous conditions and readily accessible to other facilities necessary

to carry out its program. There shall be at least one telephone on the premises.

(2) Grounds shall be adequate to provide private space for outdoor group activity. [Order 936, § 388-75-763, filed 5/23/74.]

**WAC 388-75-766 Maternity services—Safety and maintenance.** The physical plant, premises and equipment shall be maintained in a clean and sanitary condition, free of hazards and in good repair. Stairways shall be provided with handrails on both sides. Emergency lighting facilities in operational condition, such as flashlights, shall be available in agencies operating during hours of darkness. [Order 936, § 388-75-766, filed 5/23/74.]

**WAC 388-75-769 Maternity services—Water supply—Plumbing.** (1) The water supply shall meet the standards of the state department of health. Disposable paper cups, individual drinking cups, or inclined jet type drinking fountains shall be provided. Bubbler type fountains and common drinking cups are prohibited.

(2) All plumbing shall comply with the local plumbing code or, if no such code exists, with the uniform plumbing code of the Western Plumbing Officials Association. Cross-connections are prohibited. [Order 936, § 388-75-769, filed 5/23/74.]

**WAC 388-75-772 Maternity services—Floors, walls and ceilings.** All walls, ceilings and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. Toilet rooms, kitchens, and other rooms subject to excessive soiling or moisture shall have washable impervious floors. [Order 936, § 388-75-772, filed 5/23/74.]

**WAC 388-75-775 Maternity services—Ventilation—Room temperature.** (1) Ventilation by windows or mechanical means of all rooms shall be sufficient to prevent objectionable odors and condensation. Inside toilets, bathrooms, and housekeeping closets shall be vented by mechanical exhausts directly to the outside air.

(2) The temperature of rooms shall be maintained from 68°F to 74°F during the day and not less than 60°F at night. [Order 936, § 388-75-775, filed 5/23/74.]

**WAC 388-75-778 Maternity services—Lighting.** Lighting fixtures shall be selected and located to provide for the comfort and safety of the residents. Lighting intensity shall be at least fifteen foot-candles for all rooms and areas except classrooms and reading areas which shall be thirty foot-candles. [Order 936, § 388-75-778, filed 5/23/74.]

**WAC 388-75-781 Maternity services—Sewage and liquid wastes.** Sewage and liquid wastes shall be discharged into a public sewage system or into an independent sewage system approved by the local health department. [Order 936, § 388-75-781, filed 5/23/74.]

**WAC 388-75-784 Maternity services—Pest control.** The premises shall be kept free from flies, cockroaches, and other insects and breeding places therefor. Buildings shall be constructed to prevent the entrance of rodents. Windows and doors used for ventilation shall be appropriately screened. [Order 936, § 388-75-784, filed 5/23/74.]

**WAC 388-75-787 Maternity services—Required rooms, areas, equipment.** (1) There shall be rooms and areas of sufficient size and properly equipped to implement the agency's program and accommodate the number of residents served. Rooms shall be arranged to avoid all traffic through sleeping rooms, and excessive and undesirable traffic through other rooms.

(2) The following rooms or areas are required as indicated for agencies which provide residential care as defined in WAC 388-75-706(2)(b) and (d); items marked with an asterisk are required for day programs for mothers:

(a) Living room. There shall be at least one living room comfortably furnished to provide a home-like atmosphere.

(b) Dining area. There shall be a cheerful dining room or area.

(c) Sleeping rooms. The area of a sleeping room shall not be less than seventy square feet of usable floor space (exclusive of closets) per person (eighty square feet for single occupancy room). There shall not be less than three feet laterally between beds. Every sleeping room shall be an outside room permitting entrance of natural light. Each bedroom shall contain for each resident a bed at least thirty-six inches wide with a clean, firm mattress which provides for proper body alignment and comfort, a pillow and a chest of drawers or other adequate storage space. Each bed shall have adequate clean linen and bedding. Pillows and mattresses shall be covered with an impervious material to permit proper sanitizing between occupants.

(i) When mother and child sleep in the same room, the room shall contain at least 100 square feet of usable floor space. A crib, or bassinet with a clean, firm mattress shall be provided for the child. No more than one mother and one child may occupy a bedroom.

(d) Staff quarters. Rooms for staff on night supervision shall be separate from and in proximity to the rooms of residents.

(e)\* Storage rooms. Adequate storage space shall be provided for linen and bedding, cleaning equipment and supplies, luggage, clothing and other personal possessions.

(f)\* Office. Suitable space shall be provided for the administration of the agency and the safekeeping of records.

(g)\* Interviewing room. There shall be at least one separate room available for the use of the social worker, psychologist, pastor, etc. In agencies caring for fewer than fifteen mothers, this may be the same room as the administrative office.

(h)\* Classrooms. Suitable space shall be provided when academic instruction is given in the facility.

(i)\* Bath, lavatory and toilet facilities. Bathing facilities, indoor flush-type toilets and lavatory facilities with hot and cold running water shall be provided in the ratio of one toilet, one lavatory and one shower to every eight residents and staff members or major fraction thereof (in addition to toilet and lavatory facilities required for isolation room). All bathing facilities shall have adequate grab bars in convenient places. When rooms contain more than one toilet and/or shower, each of these shall be enclosed in a cubicle. All sleeping areas shall have at least one toilet and lavatory on the same floor. Soap and paper towel (or individual cloth towels) in approved dispensers shall be provided at each lavatory. Common towels are prohibited. Hot water for bathing shall not exceed 110°F. Bathing and shower facilities are not required for day programs.

(j)\* Special care room. There shall be a single room for each mother and/or infant requiring privacy or isolation because of illness. This room shall contain or be adjacent to separate toilet and lavatory facilities. Such rooms may be used for other purposes when not needed for isolation provided they are properly sanitized between uses.

(k)\* Housekeeping closet. A service sink and a housekeeping closet equipped with shelving shall be provided.

(l)\* If food is prepared and served on the premises, kitchen facilities shall be provided for the proper storage, preparation and service of food. All food service facilities and practices shall be in compliance with chapter 248-84 WAC, rules and regulations of the state board of health governing food service sanitation.

(m)\* Laundry. Adequate laundry and drying equipment shall be provided unless arrangements are made for commercial laundry service. Laundry equipment shall be located in an area separate from kitchen, dining and living areas. Adequate facilities shall be provided for storage of soiled linen separate from clean linen.

(n) Child care facility. Agencies providing child care shall meet the minimum licensing requirements for a day care center.

(o) Facilities for medical and nursing care. In agencies in which medical clinics are held, there shall be a separate adequately equipped examination room. Adequate nursing equipment shall be provided as necessary. [Order 936, § 388-75-787, filed 5/23/74.]

**WAC 388-75-790 Maternity services—Food and food service.** (1) The food and nutrition needs of each person shall be provided in accordance with the current recommended dietary allowances of the food and nutrition board, national research council, adjusted for age, activity, and trimester of pregnancy. Written menus including snacks shall be planned at least one week in advance, and kept on file for six months. Substitutes of comparable food value may be used for specific items on the planned menu. The use of raw milk is prohibited.

(2) For residential programs, three or more meals shall be served each day. Between-meal snacks shall be provided and may be part of the daily food needs. Nutrient concentrates and supplements shall be given only on the written prescription of a physician. Modified

(therapeutic or special) diets shall be served as prescribed by the physician. [Order 936, § 388-75-790, filed 5/23/74.]

**WAC 388-75-793 Maternity services—Fire safety.** The agency shall comply with appropriate rules and regulations adopted by the state fire marshal. [Order 936, § 388-75-793, filed 5/23/74.]

## Chapter 388-80 WAC

### MEDICAL CARE—DEFINITIONS

#### WAC

388-80-005 Definitions.

**WAC 388-80-005 Definitions.** (1) "Acute and emergent" signify an acute condition, defined as having a short and relatively severe course, not chronic; and an emergent condition, defined as occurring unexpectedly and demanding immediate action.

(2) "Applicant" is any person who has made an application or on behalf of whom an application has been made to the department for medical care.

(3) "Applicant-recipient" or "A/R" is an applicant for or recipient of medical care provided according to these rules.

(4) "Application" shall mean a request for medical care made to the ESSO by a person in his own behalf or in behalf of another person. A verbal application must be reduced to writing before considered complete unless the death of the applicant intervenes.

(5) "Assignment" is the method by which the provider receives payment for services under part B of medicare.

(6) "Available income" is income available to meet the cost of medical care after deducting from net income items specified by the rules.

(7) "Beneficiary" is an eligible individual who receives a federal cash benefit and/or state supplement under Title XVI.

(8) "Benefit period" is the term used by social security administration to denote a period of consecutive days during which services furnished to a patient, up to a certain specified maximum amount, can be paid for by the hospital insurance plan. The term applies to medicare beneficiaries only. See also "spell of illness".

(9) "Carrier" is the agency having a contract to serve as a third-party agency in behalf of the federal government for Part B of medicare.

(10) "Categorically related" refers to a resident of the state of Washington who is:

(a) A recipient of a federal aid grant, or

(b) A child receiving foster care, or

(c) An individual who meets the eligibility requirements for a federal aid grant, except that his income and/or resources exceed budgetary standards for a federal aid grant.

(11) "Central disbursements" is the state office section which audits nonmedicaid medical claims for payment billed on form DSHS 6-06 (A-19).

(12) Certification is a document confirming that an applicant has met the financial and medical eligibility

requirements for the federal aid medical assistance (MA) or fully state-financed care services (MS) programs.

(13) "Chiropractor" is a person licensed by the state of Washington to practice chiropractic according to chapter 18.25 RCW.

(14) "Coinsurance" is a portion of the medicare cost for covered services, after the deductible is met, which the patient must pay.

(15) "Deductible" is the initial cost of medical care for which the recipient is responsible. It applies specifically to:

(a) All recipients who are beneficiaries of Title XVIII medicare. This is the amount the individual accrues on a yearly basis and is paid by the department to the social security administration for authorized recipients;

(b) Applicants or recipients of noncontinuing general assistance who cannot be categorically related and applicants or recipients of medical only. Medical assistance can be certified after such recipients have accrued medical expenses as prescribed in WAC 388-83-045(7).

(16) "Department" shall mean the state department of social and health services, the single state agency with authority to administer the Title XIX medical care program.

(17) "Detoxification" (alcohol) means three-day treatment of acute alcoholism for which the department will pay under the medical care program.

(18) "EPSDT" shall mean a program providing early and periodic screening, diagnosis and treatment to persons under 21 years of age who are eligible under Title XIX of the Social Security Act.

(19) "Essential person" is the "grandfathered" spouse of a former OAA, AB, or DA recipient for whom a cash allowance is included in the SSI benefit of a beneficiary.

(20) "ESSO" (Economic and Social Service Office) is an office of the department which administers the medical care program at the county level.

(21) "Extended care facility" (ECF) See "skilled nursing facility".

(22) "Extended care patient" is a recently hospitalized medicare patient who needs relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

(23) "Federal aid" shall mean the medical assistance or aid to families with dependent children programs for which the state receives matching funds from the federal government.

(24) "Federal aid medical care only" (FAMCO) is medical care provided to a person not eligible for a federal aid grant or for foster care but who can otherwise be categorically related or who is otherwise eligible under the "H" category.

(25) "Financially eligible" shall mean the determination by the department that an applicant meets the financial requirements to receive medical care under the medical assistance (MA) or state medical care services (MS) programs.

(26) "Fiscal intermediary" is the agency having a contract to serve as fiscal agent for Part A of medicare.

(27) "Grandfathering" refers to certain individuals specified below who on December 31, 1973, were receiving medical assistance (or had an application pending which was subsequently approved) and who continue to be eligible under Title XVI for purposes of medicaid beginning January 1, 1974:

(a) Aged, blind and disabled recipients of FAMCO.

(b) Disabled recipients of categorical cash assistance who did not meet Title XVI disability criteria.

(c) Essential persons in adult federal-aid grant programs. All individuals above remain "grandfathered" as long as they continue to meet original program criteria or continue to be an essential person to the same individual who was converted to SSI, and as long as the latter remains eligible.

(28) "H category" is a federal aid category in the medical assistance (MA) program. An applicant under this category is an individual under 21, or a pregnant woman of any age, who cannot be categorically related but whose income and/or resources are insufficient to meet the cost of medical care.

(29) "Home" shall mean real property owned and used by an applicant-recipient as a place of residence, together with reasonable amount of property surrounding or contiguous thereto which is used and useful to him.

(30) "Home health agency" is an agency or organization certified under medicare to provide skilled nursing and other therapeutic services to the patient in his place of residence.

(31) "Hospital" shall mean any institution licensed as a hospital by the official state licensing authority.

(32) "Institution" shall mean a medical institution as defined in WAC 388-34-015.

(33) "Intermediate care facility" shall mean a licensed facility certified to provide intermediate care for which an agreement has been executed.

(34) "Legal dependents" are persons whom an individual is required by law to support.

(35) "Local office": See ESSO.

(36) "Medical assistance" or "MA" shall mean the federal aid Title XIX program under which medical care is provided to:

(a) A recipient of a federal aid grant or of SSI benefit or a child receiving foster care

(b) A recipient of general assistance who is categorically related

(c) A recipient of general assistance who is eligible for care under the "H" category

(d) A categorically related recipient or a recipient under the "H" category who is eligible for federal aid medical care only (ineligible for a grant)

(e) The spouse of an aged, blind or disabled beneficiary for whom a cash allowance is included in the SSI benefit.

(37) "Medical audit". See "professional audit."

(38) "Medical care program" is the total program under which medical care is provided through medical assistance (MA) and medical care services (MS) according to the rules in chapters 388-80 through 388-95 WAC.

(39) "Medical care services" or "MS" shall mean the fully state-financed program under which medical care is provided to:

(a) A recipient of general assistance who cannot be categorically related,

(b) A recipient of general assistance who does not qualify in the "H" category,

(c) A recipient of medical only (MO).

(40) "Medical consultant" shall mean a physician employed by the department at the ESSO level.

(41) "Medicare" is a commonly used term for the federal government health insurance program for certain aged or disabled recipients under Titles II and XVII of the Social Security Act.

(42) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the department at the ESSO level.

(43) "Outpatient" is a nonhospitalized patient receiving care in an outpatient or emergency department of a hospital, or away from a hospital such as in a physician's office or the patient's own home.

(44) "Part A" is the hospital insurance portion of medicare.

(45) "PAS" – professional activity study is a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, which resulted in the determination of an average length of stay for patients. These data were published in a book entitled "Length of Stay in PAS Hospitals, United States". The department has adopted this book as the basis for authorizing the maximum number of days of inpatient hospital care for which the department is responsible for payment.

(46) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor portion" of medicare.

(47) "Participation" is that part of the cost of medical care which the recipient who has available resources must pay.

(48) "Physician" is a doctor of medicine, osteopathy or podiatry who is legally authorized to perform the functions of his profession by the state in which he performs them.

(49) "Professional audit" shall mean that unit of the department which audits and authorizes payment for Title XIX provider billings.

(50) "Provider" or "provider of service" means those institutions, agencies, or individuals furnishing medical care and goods and/or services to recipients and who are eligible to receive payment from the department. See also "vendor".

(51) "Recipient of continuing assistance" is a person certified by the ESSO as eligible to receive a continuing maintenance grant, that is, a recipient of federal aid or continuing general assistance (GAU) or a child receiving foster care.

(52) "Recipient of medical assistance" (MA) is a resident of the state of Washington who is receiving medical care as a recipient of a federal aid grant or SSI benefit, as a foster child, as a recipient of general assistance categorically related or under the H category, as an "essential person", or who has been certified as eligible to receive federal aid medical care only (FAMCO).

(53) "Recipient of medical only" (MO) is a resident of the state of Washington who is not eligible for a grant or for medical assistance (MS), and who has been certified for the treatment of acute and emergent conditions only, under that part of the state funded medical care services (MS) program known as "medical only".

(54) "Recipient of noncontinuing general assistance" is a person certified by the department as eligible to receive temporary general assistance (GAN).

(55) "Resident" is a person who is living in the state of Washington voluntarily and not for a temporary purpose; that is, one who has indicated his intent to maintain his residence in the state and has no present intention of leaving the state to take up residence. No requirement of durational residence is imposed as a condition of eligibility.

(56) "Resource" is any asset which could be applied toward meeting the costs of medical care. A nonexempt resource is one which is available to meet the costs of medical care. An exempt resource is not considered available to meet the costs of medical care.

(57) "Retroactivity" is the process used to certify applicant/recipients related to federal programs no earlier than the first day of the third month prior to the month of application to cover unpaid bills for covered medical care.

(58) "Skilled nursing facility" shall mean a licensed facility certified to provide skilled nursing care for which an agreement has been executed.

(59) "Skilled nursing home", unless otherwise described, shall mean any institution or facility licensed by the department as a nursing home, or is a nursing home unit of a hospital licensed by the state department of social and health services. Also known as "skilled nursing facility".

(60) "Spell of illness" (benefit period) begins on the first day a person eligible for medicare receives covered services in a hospital or extended care facility. A spell of illness ends as soon as he has been out of any hospital, extended care facility, or a nursing home providing skilled nursing service, for sixty consecutive days.

(61) "Spouse" –

(a) Eligible spouse is a person in a two-person household who, in addition to the eligible individual, is eligible for cash benefits under SSI. This person is automatically eligible for medicaid.

(b) Ineligible spouse is a person in a two person household of an eligible individual who is not eligible for a cash benefit under SSI. This person is not automatically eligible for medicaid and must apply in his or her own right.

(62) "State office" or "SO" shall mean the office of medical assistance of the health services division of the department.

(63) "Supplementary security income" is a cash benefit provided as a federal payment and/or state supplement under Title XVI for the aged, blind and disabled.

(64) "Title XVI" is a program administered by the social security administration which provides supplementary security income to the aged, blind and disabled.

(65) "Transfer of property" shall mean any act or any omission to act whereby title to property is assigned or

set over or otherwise vested or allowed to vest in another person, including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing whole or partial title of property.

(66) "Vendor" is a provider of medical goods or services under these rules.

**NOTE\*** Specific definitions applicable to: medical assistance to the aged and those under 21 years of age in mental institutions are in WAC 388-95-005, Title XVI related recipients are in WAC 388-92-005, and "Grandfathered" recipients are in WAC 388-93-005.

[Order 1196, § 388-80-005, filed 3/3/77; Order 1112, § 388-80-005, filed 4/15/76; Order 1061, § 388-80-005, filed 10/8/75; Order 922, § 388-80-005, filed 4/15/74; Order 761, § 388-80-005, filed 1/2/73; Order 735, § 388-80-005, filed 11/22/72; Order 676, § 388-80-005, filed 5/10/72; Order 615, § 388-80-005, filed 10/7/71; Order 564, § 388-80-005, filed 5/19/71; Order 577, § 388-80-005, filed 7/20/71; Order 471, § 388-80-005, filed 8/19/70; Order 381, § 388-80-005, filed 8/27/69; Order 298, § 388-80-005, filed 9/6/68; Order 264 (part), § 388-80-005, filed 11/24/67.]

### Chapter 388-81 WAC

#### MEDICAL CARE—ADMINISTRATION— GENERAL

##### WAC

388-81-005	Medical care program.
388-81-010	Civil rights.
388-81-015	Institution of control.
388-81-020	Vendor reports—Collection and analysis of statistical data.
388-81-025	Eligibility—General.
388-81-030	Case exception.
388-81-035	Confidential records.
388-81-040	Fair hearing.
388-81-050	Restitution.
388-81-055	Fraud.
388-81-060	Supplementary medical insurance "buy in".

##### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-81-045	Procedure prior to fair hearing. [Order 264 (part), § 388-81-045, filed 11/24/67.] Repealed by Order 299, filed 9/6/68.
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**WAC 388-81-005 Medical care program.** The department of social and health services provides a medical care program, administered through the office of medical assistance, designed to meet the health care needs of eligible individuals who do not have resources to meet the full cost of medical care. [Order 1233, § 388-81-005, filed 8/31/77; Order 833, § 388-81-005, filed 7/26/73; Order 264 (part), § 388-81-005, filed 11/24/67.]

**WAC 388-81-010 Civil rights.** The Department will assure that all participating providers will not discriminate in providing approved services to any applicant or

recipient because of race, creed, color, or national origin, nor will they discriminate against any employee or applicant for employment because of race, creed, color, or national origin, except to the extent permitted by a bona fide occupational qualification. [Order 1233, § 388-81-010, filed 8/31/77; Order 264 (part), § 388-81-010, filed 11/24/67.]

**WAC 388-81-015 Institution of control.** The Department shall establish and enforce such administrative controls as may be necessary to prevent abuses by vendors or recipients including, but not limited to, determination of need for and duration of services, assurance of justification of services, reasonableness of costs, and operation of the program within the limits of the legislative appropriation. [Order 264 (part), § 388-81-015, filed 11/24/67.]

**WAC 388-81-020 Vendor reports—Collection and analysis of statistical data.** (1) When requested by the Division, full reports of goods furnished and services rendered shall be submitted to the Department by all vendors under the program in the manner specified. The Department shall provide the vendor with standardized forms to report these data.

(2) Data collected by the Department in this manner shall be tabulated and analyzed to secure statistics on costs of and the services rendered in the various phases of the program. Tabulations and analyses so prepared shall be available to the Department's Advisory Committee, State Welfare Medical Care Committee, official organizations of vendor groups participating in the program, and other appropriate individuals or groups. [Order 264 (part), § 388-81-020, filed 11/24/67.]

**WAC 388-81-025 Eligibility—General.** (1) Financial eligibility is established when the department certifies that the applicant meets the appropriate financial requirements in chapter 388-83 WAC.

(2) The department shall be responsible for payment of medical care provided within the scope of the program to recipients of medical assistance (MA), to recipients of continuing general assistance (GAU) who cannot be categorically related, to recipients of noncontinuing general assistance (GAN) and medical only (MO) who have an acute and emergent medical need. Services provided and limitations thereto are specified in chapter 388-86 WAC. [Order 1112, § 388-81-025, filed 4/15/76; Order 472, § 388-81-025, filed 8/19/70; Order 299, § 388-81-025, filed 9/6/68; Order 264 (part), § 388-81-025, filed 11/24/67.]

**WAC 388-81-030 Case exception.** The need for medical care is not subject to inflexible determination which can be described in policy, rule, or regulation. Professional judgment must be exercised in each case and exceptions granted in those instances where unusual need and circumstances exist. Where undue hardship may result to an individual, if medical care services are denied by strict application of a rule or regulation, exceptions to policy may be made according to WAC 388-



20-020. [Order 1112, § 388-81-030, filed 4/15/76; Order 299, § 388-81-030, filed 9/6/68; Order 264 (part), § 388-81-030, filed 11/24/67.]

**WAC 388-81-035 Confidential records.** Medical and administrative records pertaining to applications and services rendered recipients are confidential. Disclosure of information contained in such records, files, papers, and communications is prohibited except for purposes directly connected with the administration of the public assistance and medical care programs. [Order 264 (part), § 388-81-035, filed 11/24/67.]

**WAC 388-81-040 Fair hearing.** (1) Any applicant for or recipient of medical care provided under chapter 74.09 RCW who feels aggrieved by a decision rendered by the department has a right to a fair hearing as provided by chapter 388-08 WAC.

(2) When the fair hearing request calls into question a decision of a medical consultant or when eligibility is being determined in the federal aid medical care only or medical only programs, a prehearing review is the responsibility of the office of medical assistance.

(3) Chapter 388-08 WAC applies when a request for a fair hearing is related to medical care.

(4) The medical director or his designee shall review all fair hearing requests referred by the examiner to determine:

(a) Whether or not the appellant's request for service was filed according to the applicable rules and regulations,

(b) Whether or not the decisions have been made upon complete and accurate evaluation of the facts, existing standards, regulations, and policies.

(5) All records and information necessary to determine the validity of the appellant's fair hearing request shall be furnished upon request to the reviewing authority and must be forwarded to him not later than ten days from such request.

(6) Upon receipt of the necessary material, evidence, or reports, the designated reviewing authority shall evaluate the appellant's request in accord with existing rules, regulations, and policies of the department. The reviewing authority:

(a) May reverse the decision when such adverse decision has been made contrary to rules, regulations and policies of the division.

(b) May resolve a situation resulting in the fair hearing request by adjustment.

(7) In providing a system for fair hearings for applicants or recipients of medical care, the rules in chapter 388-08 WAC and in WAC 388-81-040 shall be adhered to and, where appropriate, WAC 388-33-365 through 388-33-385 shall apply as construed to pertain to eligibility for medical care, change in circumstances (participation), reduction in the scope of care, termination and notice thereof and continuation of medical care pending a fair hearing decision. [Order 1112, § 388-81-040, filed 4/15/76; Order 952, § 388-81-040, filed

7/16/74; Order 578, § 388-81-040, filed 7/20/71; Order 299, § 388-81-040, filed 9/6/68; Order 264 (part), § 388-81-040, filed 11/24/67.]

**WAC 388-81-050 Restitution.** (1) If a recipient of medical care was not eligible for such care or comes into possession of resources which he fails to disclose to the department, the amount of such medical care payment made by the department on his behalf which could have been met by his undisclosed resources shall be an overpayment and a debt due the department. (See chapter 388-44 WAC for definition of overpayment and procedures pertaining to repayment by grant recipients.) Reimbursement cannot be collected from a grant for vendor payments incorrectly paid for medical care.

(2) If repayment is not obtained from a non-grant recipient, the case and the files relative thereto shall be forwarded to the state office support enforcement and collections unit for such further action as deemed necessary. However, in no event shall a lien be filed while the ineligible recipient or his dependent spouse is still living unless the claim has been reduced to judgment in a superior court of the state of Washington. [Order 299, § 388-81-050, filed 9/6/68; Order 264 (part), § 388-81-050, filed 11/24/67.]

**WAC 388-81-055 Fraud.** Any person who by means of willfully false statement or representation or by impersonation or other fraudulent device or failure to reveal resources as required obtains or attempts to obtain or aids or abets any person to obtain medical care to which he is not entitled shall be guilty of larceny. See WAC 388-44-020 for procedures to be followed in cases involving fraud. [Order 299, § 388-81-055, filed 9/6/68; Order 264 (part), § 388-81-055, filed 11/24/67.]

**WAC 388-81-060 Supplementary medical insurance "buy in".** The department will purchase supplementary medical insurance Part B, under Title XVIII of the social security act for an eligible individual who is a recipient of a federal aid grant or federal aid medical care only and who

(1) is entitled to hospital insurance benefits under Part A, or

(2) has attained the age of 65 and is either a citizen or an alien lawfully admitted for permanent residence who has resided in the United States continuously during the five years immediately preceding the month in which he applies for assistance, or

(3) is under age 65 and has been entitled to disability insurance benefit annuities under the social security act for not less than twenty-four consecutive months on the basis of a disability for which compensation is being paid by the social security administration, or

(4) is a beneficiary of medicare because of chronic renal disease requiring hemodialysis or kidney transplantation. [Order 911, § 388-81-060, filed 3/1/74; Order 833, § 388-81-060, filed 7/26/73; Order 299, § 388-81-060, filed 9/6/68.]

## Chapter 388-82 WAC

MEDICAL CARE—PROGRAM DESCRIBED—  
LIMITATIONS

## WAC

388-82-005	Medical care—General description of programs.
388-82-010	Persons eligible for medical assistance.
388-82-015	"H" category (federal aid).
388-82-020	Medical care services.
388-82-025	Institutional status.
388-82-030	State of Washington resident requiring care out-of-state.
388-82-035	Out-of-state resident requiring medical care in Washington state.
388-82-040	Medical care for Cuban refugees.
388-82-045	Medical care for United States citizen returned from foreign country.

**WAC 388-82-005 Medical care—General description of programs.** There are two programs under which medical care is available. Medical assistance (MA) provides full scope of medical care within limitations of available funds to individuals whose needs can be related to a federal category. Medical care services (MS) provides a generally more limited scope of care financed entirely by state funds to those who cannot be so related. [Order 952, § 388-82-005, filed 7/16/74; Order 264 (part), § 388-82-005, filed 11/24/67.]

**WAC 388-82-010 Persons eligible for medical assistance.** Medical assistance is provided for:

(1) A recipient of AFDC (including AFDC foster child) or beneficiary of supplemental security income who has applied for medical assistance.

(2) The essential person of a converted supplemental security income beneficiary as defined in WAC 388-92-070;

(3) A child, other than AFDC-FC foster child, for whom the department is making a foster care payment and who is determined eligible for medical assistance;

(4) An individual qualifying for the "H" federally aided category;

(5) A recipient of general assistance who can be categorically related;

(6) An individual who qualifies for federal aid medical care only (FAMCO) by meeting the eligibility standards in

(a) Chapter 388-83 WAC, and

(b) WAC 388-24-040(1) through (7), 388-24-050, and 388-24-550, for aid to families with dependent children, or

(c) Chapter 388-93 WAC for age, blindness or disability certified before January 1, 1974; or

(d) Chapter 388-92 WAC for age, blindness or disability certified after January 1, 1974. [Order 1202, § 388-82-010, filed 4/1/77; Order 1137, § 388-82-010, filed 7/29/76; Order 1044, § 388-82-010, filed 8/14/75; Order 995, § 388-82-010, filed 12/31/74; Order 952, § 388-82-010, filed 7/16/74; Order 911, § 388-82-010, filed 3/1/74; Order 382, § 388-82-010, filed 8/27/69; Order 300, § 388-82-010, filed 9/6/68; Order 264 (part), § 388-82-010, filed 11/24/67.]

**WAC 388-82-015 "H" category (federal aid).** (1) An applicant for the "H" category of medical assistance shall meet the following eligibility conditions:

(a) Not be eligible for or relatable to AFDC as outlined in WAC 388-82-012,

(i) Obstetric care, other than abortion, is considered to be care of the unborn child with the mother's care considered as incidental. The parents of a pregnant minor are not financially responsible for the unborn child of the minor and therefore are not responsible for the costs associated with the pregnancy. An unmarried pregnant minor, who is otherwise financially eligible, is eligible under the AFDC-related category (rather than the H-program) on behalf of the unborn for the prenatal care and for six weeks of postpartum care. After the postpartum period of care, the minor mother's nonobstetrical medical care continues as the responsibility of her parents. Parents continue to be financially responsible for medical costs associated with abortion of a pregnant minor as they are for any non-obstetric care.

(b) Be a resident of the state of Washington, and

(c) Be under the age of 21, or if age 21 or over be pregnant, and

(d) Be financially in need according to WAC 388-83-035 through 388-83-055, or be a recipient of general assistance.

(2) Marital or emancipation status does not affect eligibility. The applicant may be single, married, divorced, separated, emancipated or not, a parent or not a parent.

(3) The parent (age 21 or older) of an applicant for "H" category of medical assistance must qualify in his own right under the medical assistance or medical care services programs.

(4) The pregnant individual over 21 may qualify under the "H" category because of the eligibility of the unborn child. Prenatal and six weeks postpartum care is provided. [Order 1097, § 388-82-015, filed 2/13/76; Order 995, § 388-82-015, filed 12/31/74; Order 911, § 388-82-015, filed 3/1/74; Order 765, § 388-82-015, filed 1/10/73; Order 518, § 388-82-015, filed 2/24/71; Order 382, § 388-82-015, filed 8/27/69; Order 300, § 388-82-015, filed 9/6/68; Order 264 (part), § 388-82-015, filed 11/24/67.]

**WAC 388-82-020 Medical care services.** An individual eligible for medical care services (MS) under the fully state-financed program is one who cannot meet the eligibility requirements under any medical assistance (MA) program, but does meet either (1), or (2) and (3) of the requirements below:

(1) Is eligible to receive a continuing general assistance grant or is a dependent other than a spouse included in a federal grant.

(2) Is either a recipient of noncontinuing general assistance who cannot be related to Title XVI or in need of medical care only (MO), and has satisfied a deductible of \$100 over a twelve month period from the date of application, and meets financial criteria according to WAC 388-83-035 through 388-83-055.

(3) Is medically eligible by reason of an acute and emergent condition (see WAC 388-86-120(2)). Certification covers the acute and emergent condition only, see

WAC 388-85-015(3) and 388-86-032. [Order 1203, § 388-82-020, filed 4/1/77; Order 1196, § 388-82-020, filed 3/3/77; Order 995, § 388-82-020, filed 12/31/74; Order 911, § 388-82-020, filed 3/1/74; Order 765, § 388-82-020, filed 1/10/73; Order 677, § 388-82-020, filed 5/10/72; Order 547, § 388-82-020, filed 3/31/71, effective 5/1/71; Order 382, § 388-82-020, filed 8/27/69; Order 300, § 388-82-020, filed 9/6/68; Order 264 (part), § 388-82-020, filed 11/24/67.]

**WAC 388-82-025 Institutional status.** (1) The benefits of the medical assistance (MA) program are available to an eligible individual, age 65 or older, who is a patient in a state mental hospital or tuberculosis sanitarium which has an agreement with the state of Washington to provide such care and to AFDC recipients and SSI beneficiaries under age 21 who are patients in a state mental hospital. See WAC 388-95-210.

(2) Persons in non-medical units of state institutions are not eligible for medical assistance. See WAC 388-90-005(1). [Order 1097, § 388-82-025, filed 2/13/76; Order 518, § 388-82-025, filed 2/24/71; Order 264 (part), § 388-82-025, filed 11/24/67.]

**WAC 388-82-030 State of Washington resident requiring care out-of-state.** (1) If a resident (child or adult) of the state of Washington is temporarily in another state and requires medical care, and the person is eligible for medical assistance (MA), the responsibility for medical care rests with the state of Washington. The standard of care will be comparable with that which is provided in the state of Washington (except that chiropractic out-of-state is confined to three treatments for acute and emergent conditions). Medical care provided to recipients traveling in Canada is restricted to recipients of MA and to the treatment of acute and emergent conditions only. Vendor billing for medical care received by recipients in Canada shall be processed in the same manner as other out-of-state billing.

(2) Except as provided in subsection (3), admission to an out-of-state nursing home is considered as establishing residence outside this state, and the individual is ineligible for further medical care from the state of Washington.

(3) If a situation arises indicating need for short-term convalescent nursing home care for an individual temporarily outside the state, a decision shall be secured from the state office of nursing home affairs before any commitment is made.

(4) In border situations where necessary medical care is unavailable locally to state of Washington residents but is available in a bordering state or Canada, such care may be obtained outside the state of Washington, provided that comparable care cannot be obtained in a less distant area within the state of Washington. The approval of the medical consultant on the appropriate state form(s) is considered verification that such medical care is not available locally. This subsection does not apply to the situation in subsection (1) of this rule except that vendor billing for care received in Canada is the same.

(5) In those instances where a provider in a border state situation has a current agreement with the state of Washington, the signature of the medical consultant is not required except for those situations listed in WAC 388-87-025(2)(a) through (p). These providers are located in areas such as, but not limited to, Astoria, Milton-Freewater, Hood River, Portland, and the Dalles, Oregon, and Lewiston and Sandpoint, Idaho. Providers in border states who have a current agreement with the state of Washington must comply with all Washington State statutes and department rules in the same manner as in-state providers.

(6) Medical care under the state-financed medical care services (MS) program shall not be provided for Washington residents who are out of the state except for border situations described in subsection (4) of this rule. [Order 1203, § 388-82-030, filed 4/1/77; Order 1166, § 388-82-030, filed 10/27/76; Order 1112, § 388-82-030, filed 4/15/76; Order 709, § 388-82-030, filed 9/14/72; Order 462, § 388-82-030, filed 6/23/70; Order 332, § 388-82-030, filed 2/3/69; Order 300, § 388-82-030, filed 9/6/68; Order 264 (part), § 388-82-030, filed 11/24/67.]

**WAC 388-82-035 Out-of-state resident requiring medical care in Washington state.** (1) The eligibility of an out-of-state applicant (adult or child from another state temporarily in the state of Washington who requires emergent medical care) shall be determined according to the standards of care provided under the medical only (MO) program. Any entitlement to Title XIX benefits in another state or any other medical resource shall be utilized. Exception to the scope of care provided a resident of another state is made for a child or unmarried mother receiving child welfare services. For such person the full scope of care is provided even though he is under the medical only (MO) program.

(2) A person establishing residence in the state of Washington for medical assistance purposes who previously received medical assistance related to disability from another state shall not be automatically eligible for medical assistance related to disability. His application must be pending for medical assistance categorically related to Title XVI disability. The procedures in WAC 388-92-015 shall be followed.

(3) Benefits of the medical assistance (MA) or medical care services (MS) programs shall not be available to residents of other states who enter the state of Washington for the primary purpose of obtaining medical care. However, when a person can no longer be considered a resident of another state and/or expresses his intention to remain permanently in Washington, his eligibility shall be determined as a resident of Washington (see WAC 388-26-055(3)). If there is evidence that the person is maintaining a home in another state, see WAC 388-28-420(4) about sale of resource.

(4) A recipient of public assistance from Alaska who is sent to Washington according to agreement with the Alaska state department of health and welfare to obtain nursing home care does not gain residence and become eligible for assistance in Washington while he remains in the nursing home. [Order 1203, § 388-82-035, filed

4/1/77; Order 1158, § 388-82-035, filed 10/6/76; Order 995, § 388-82-035, filed 12/31/74; Order 879, § 388-82-035, filed 11/29/73; Order 404, § 388-82-035, filed 11/24/69; Order 382, § 388-82-035, filed 8/27/69; Order 300, § 388-82-035, filed 9/6/68; Order 264 (part), § 388-82-035, filed 11/24/67.]

**WAC 388-82-040 Medical care for Cuban refugees.**

(1) Cuban refugees (as defined in chapter 388-58 WAC) receiving Cuban refugee assistance shall be eligible for the full scope of care provided by the medical assistance program.

(2) Payment for hospitalization may be authorized retroactively to the month prior to the request for payment when acute illness or other complications prevent the hospitalized Cuban refugee or the hospital from following normal procedures in applying for the determining eligibility for assistance.

(3) The program provides treatment for mental illness and tuberculosis. [Order 995, § 388-82-040, filed 12/31/74; Order 834, § 388-82-040, filed 7/26/73; Order 300, § 388-82-040, filed 9/6/68.]

**WAC 388-82-045 Medical care for United States citizen returned from foreign country.**

(1) A repatriated United States citizen as defined in chapter 388-62 WAC, if eligible for public assistance, is authorized to receive grants on a non-continuing basis only but is eligible for full scope medical care comparable to that provided for medical assistance (MA) cases.

(2) Eligibility for medical care for a repatriated American citizen not eligible for a public assistance grant shall be determined by the same standards as for all other applicants for medical care. [Order 300, § 388-82-045, filed 9/6/68.]

**Chapter 388-83 WAC**

**MEDICAL CARE—ELIGIBILITY**

<b>WAC</b>	
388-83-005	General eligibility.
388-83-010	Use of alternative sources for medical care.
388-83-015	Citizenship.
388-83-017	Social security number.
388-83-020	Age.
388-83-025	Residence.
388-83-027	Medical need.
388-83-030	Computation of available income.
388-83-035	Monthly maintenance standard—Applicant living in own home.
388-83-040	Monthly maintenance standard—Applicant in institution.
388-83-045	Allocation of available income and nonexempt resources.
388-83-050	Availability of resources.
388-83-055	Exempt resources.
388-83-060	Nonexempt resources.
388-83-065	Transfer of resources within two years prior to application.

**WAC 388-83-005 General eligibility.** The department shall provide medical care within the limitations set forth under these rules and regulations to any individual who has been certified as eligible to receive such care under the medical care program, that is, certified as

eligible for federal aid medical assistance (MA), or state-financed medical care services (MS). Any person who has been so certified may obtain approved medical care from any eligible provider who undertakes to provide services under the rules and regulations of the department. The recipient shall be responsible for furnishing the provider with a medical identification coupon or other adequate notification of eligibility provided by the department. [Order 1203, § 388-83-005, filed 4/1/77; Order 922, § 388-83-005, filed 4/15/74; Order 483, § 388-83-005, filed 10/13/70; Order 264 (part), § 388-83-005, filed 11/24/67.]

**WAC 388-83-010 Use of alternative sources for medical care.**

(1) All other resources for medical care available to the applicant at time of application or to a recipient must be utilized to the fullest possible extent in the payment for the medical care provided to an otherwise eligible applicant or recipient prior to participation by the department.

(2) Additional payments or contributions by an applicant, a recipient, or other person meant to increase the level of care beyond that normally provided will be considered as a non-exempt resource and will be applied against the cost of care normally provided under the program.

(3) The department makes agreements with providers of prepaid medical plans. Eligible recipients who choose to participate in a prepaid program are required to utilize such providers of service exclusively except for certain noncovered services for which the department may be responsible under the medical care program. See WAC 388-87-010(4). [Order 1061 § 388-83-010, filed 10/8/75; Order 780, § 388-83-010, filed 3/16/73; Order 405, § 388-83-010, filed 11/24/69; Order 264 (part), § 388-83-010, filed 11/24/67.]

**WAC 388-83-015 Citizenship.**

(1) An applicant for federal aid medical care only must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law including an alien who is lawfully present in the United States according to specified sections of the immigration and nationality act. (See WAC 388-26-120)

(2) This requirement does not apply to the medical only program. [Order 967, § 388-83-015, filed 8/29/74; Order 264 (part), § 388-83-015, filed 11/24/67.]

**WAC 388-83-017 Social security number.**

(1) An applicant for federal aid medical care only shall be encouraged to provide a social security number on the application form and shall be assisted to secure such number if he wishes to secure one.

(2) An applicant who is otherwise eligible shall not be denied medical assistance because of failure or refusal to disclose or apply for a social security number, and the individual shall be so informed. [Order 1056, § 388-83-017, filed 9/25/75.]

**WAC 388-83-020 Age.** No age requirements is imposed as a condition of eligibility in regard to the Medical Care Program. The age of the applicant is established to determine whether the individual may be related to a federal aid category, or may be eligible under the "H" category. [Order 264 (part), § 388-83-020, filed 11/24/67.]

**WAC 388-83-025 Residence.** An applicant or recipient of the benefits of the Medical Care Program must be a resident of the State of Washington (see exception in WAC 388-82-035(1); an applicant-recipient need not be a resident of the county in which medical care is sought. [Order 264 (part), § 388-83-025, filed 11/24/67.]

**WAC 388-83-027 Medical need.** (1) Applicants for federal aid medical care only (FAMCO), who do not meet the criteria in subsections (2), (3), (4) or (5) of this rule, must claim to have a medical need at the time of application before certification may be made.

(2) Applicants for early and periodic screening only, as outlined by WAC 388-86-005, shall be considered to have satisfied the requirement for a medical need.

(3) Persons whom in August 1972, received OAA, AFDC, AB, or DA and also received RSDI benefits, and who became ineligible for OAA, AFDC, AB or DA solely because of the 20% increase in social security benefits under Public Law 92-336, shall be eligible for federal aid medical care only (FAMCO) without consideration of medical need as an eligibility factor. The provisions of WAC 388-83-045(8)(a) shall apply.

(4) Applicants for FAMCO or AFDC who were entitled to RSDI benefits in August, 1972 and would have been eligible for OAA, AFDC, AB or DA in August, 1972 but are not currently eligible solely because of the 20% increase in social security benefits under Public Law 92-336 shall have the 20% increase disregarded in determining financial eligibility for FAMCO and medical need shall not be an eligibility factor. The provisions of WAC 388-83-045(8)(b) shall apply.

(5) An AFDC grant assistance family which becomes ineligible because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility,

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.

(d) Medical need shall not be an eligibility factor,

(e) Participation shall not be required. [Order 1196, § 388-83-027, filed 3/3/77; Order 1061, § 388-83-027, filed 10/8/75; Order 964, § 388-83-027, filed 8/19/74; Order 922, § 388-83-027, filed 4/15/74; Order 911, § 388-83-027, filed 3/1/74; Order 879, § 388-83-027, filed 11/29/73; Order 787, § 388-83-027, filed

4/12/73; Order 736, § 388-83-027, filed 11/22/72; Order 419; § 388-83-027, filed 12/31/69.]

**WAC 388-83-030 Computation of available income.**

(1) Income and net income shall be as defined in WAC 388-22-030.

(a) Total income of a beneficiary of supplemental security income, except for institutionalized recipients, is not considered an available resource; see WAC 388-92-025(1)(a) for SSI-related recipients.

(2) Net cash income shall be determined as for the federal aid category to which the FAMCO recipient is relatable according to WAC 388-28-515 through 388-28-580, except that:

(a) Contrary to WAC 388-28-515(4)(e) the cost of child care necessary to employment shall be deducted from earned income as an employment expense if such care is not provided without cost or as departmental service. The expense allowed shall be the actual cost but not to exceed the standard in WAC 388-15-170(8)(a).

(b) Contrary to WAC 388-28-570(6), earned income exemptions for applicants and recipients of medical assistance related to AFDC do not apply.

(3) To arrive at available income, the following items shall be deducted from net income:

(a) Support payments being paid by the applicant or recipient under court order,

(b) Special nonmedical needs, such as payment to a wage earner's plan (specified by the court in a bankruptcy proceeding), or previously contracted major household repairs if failure to make such payments would result in garnishment of wages or loss of employment. [Order 1203, § 388-83-030, filed 4/1/77; Order 1196, § 388-83-030, filed 3/3/77; Order 1158, § 388-83-030, filed 10/6/76; Order 1112, § 388-83-030, filed 4/15/76; Order 922, § 388-83-030, filed 4/15/74; Order 780, § 388-83-030, filed 3/16/73; Order 710, § 388-83-030, filed 9/14/72; Order 655, § 388-83-030, filed 2/9/72; Order 466, § 388-83-030, filed 6/23/70; Order 264 (part), § 388-83-030, filed 11/24/67.]

**WAC 388-83-035 Monthly maintenance standard—Applicant living in own home.**

(1) The following monthly standards of available income for maintenance in dollar amounts shall apply when determining financial eligibility effective July 1, 1977.

Family Size	Standard
1	\$219
2	312
3	355

For each individual above 3 members in the family, an increase in the amount of \$61 shall be added.

(2) Allowances for the costs of additional requirements in WAC 388-28-150 through 388-28-251 shall not be considered as they have been averaged into the monthly maintenance standard.

(3) The monthly maintenance standard in subsection (1) does not apply to persons identified in subdivisions (a) and (b); the standards in effect on August 1, 1972 apply.

(a) Persons who, in August, 1972, received OAA, AFDC, AB or DA and also received RSDI benefits, and who became ineligible for OAA, AFDC, AB or DA solely because of the twenty percent increase in social security benefits under Public Law 92-336;

(b) Current applicants for AFDC or FAMCO who, in August, 1972, received RSDI benefits and who would have been eligible for OAA, AFDC, AB, or DA in such month but are not currently eligible solely because of the twenty percent increase in social security benefits under Public Law 92-336.

(4) The monthly maintenance standard in subsection (1) does not apply to persons identified in WAC 388-83-027(5) as categorically related to AFDC but ineligible because of increased income.

(5) The individual receiving benefits under Title XVI, is not included in the family unit when applying the standards in subsection (1) for determining available income. [Order 1246, § 388-83-035, filed 10/11/77; Order 1144, § 388-83-035, filed 8/26/76; Order 1061, § 388-83-035, filed 10/8/75; Order 1040, § 388-83-035, filed 8/7/75; Order 1015, § 388-83-035, filed 3/27/75; Order 995, § 388-83-035, filed 12/31/74; Order 952, § 388-83-035, filed 7/16/74; Order 922, § 388-83-035, filed 4/15/74; Order 911, § 388-83-035, filed 3/1/74; Order 879, § 388-83-035, filed 11/29/73; Order 787, § 388-83-035, filed 4/12/73; Order 655, § 388-83-035, filed 2/9/72; Order 555, § 388-83-035, filed 4/1/71; Order 466, § 388-83-035, filed 6/23/70; Order 383, § 388-83-035, filed 8/27/69; Order 264 (part), § 388-83-035, filed 11/24/67.]

**WAC 388-83-040 Monthly maintenance standard—Applicant in institution.** The standard for clothing and personal maintenance for an individual in a skilled nursing facility or general hospital is as set forth in WAC 388-28-136. [Order 1061, § 388-83-040, filed 10/8/75; Order 922, § 388-83-040, filed 4/15/74; Order 383, § 388-83-040, filed 8/27/69; Order 264 (part), § 388-83-040, filed 11/24/67.]

**WAC 388-83-045 Allocation of available income and nonexempt resources.** (1) Available income according to WAC 388-83-030 shall be allocated in the following order to:

(a) Maintenance needs of the applicant/recipient living in his own home, or of legal dependents living in the family home if the applicant/recipient is in an institution; see WAC 388-92-025(1)(a) for SSI-related recipients.

The maintenance standards in WAC 388-83-035 shall apply unless the legal dependents are applying for or receive public assistance when the grant standards in chapters 388-28 and 388-30 WAC shall apply.

(b) Maintenance needs according to WAC 388-83-040 for an applicant or recipient in an institution.

(c) Supplementary medical insurance premiums for a FAMCO recipient related to Title XVI and not in a nursing home who is eligible for medicare during the month of authorization and the month following if not withheld from the RSI/RR benefit (see WAC 388-81-060).

(d) Health and accident insurance premiums for policies in force at time of application.

(e) Costs not covered under this program for medical or remedial care as determined necessary by the attending physician or, where appropriate, a dentist (see WAC 388-91-016(1)(a)), except that costs for services denied as medically inappropriate or not medically necessary, covered by medicare or other benefits or denied because of poor justification or late billing may not be exempted.

(f) Payments made or being made for covered or non-covered medical care incurred within three months prior to month of application (FAMCO recipient only).

(2) Participation in cost of care shall apply to

(a) The monthly excess income multiplied by six or the anticipated excess income that will be available within a six-month period, whichever is greater, if the individual is living outside an institution.

(b) The monthly excess income of a person in an institution after allowing for clothing and personal incidentals.

(c) The resources in excess of those listed in WAC 388-28-430(2)(a); WAC 388-83-055 and 388-83-060.

(d) Additional cash resources that come into possession of the recipient during a period of certification.

(e) For recipients of medical only (MO) and of non-continuing general assistance who cannot be categorically related to Title XVI, and who are not undergoing detoxification for an acute alcoholic condition, participation with excess income or nonexempt resources is applicable after allowance is made for mandatory deductions of employment, union dues, the monthly maintenance standard and a \$100 deductible per family. The \$100 deductible per family shall be applied no more than once during a twelve-month period and is effective with the date of application. The seven day rule in WAC 388-86-120(2)(h) applies to the accrual of the deductible. The \$100 deductible is the minimum amount of participation during the twelve-month period. Participation from excess income is applied as in subdivision (2)(a) less any deductible.

(f) For recipients of medical only (MO) and of non-continuing general assistance who cannot be related to Title XVI, who are undergoing detoxification for an acute alcoholic condition, the \$100 deductible will not be required as an eligibility factor for the covered period of detoxification. Continued hospitalization for a concurrent acute and emergent condition beyond the number of days approved for detoxification as a single diagnosis will require the application of the \$100 deductible.

(3) The twenty percent increase in social security benefits shall be considered exempt income when determining eligibility and participation for:

(a) Persons who in August 1972 received OAA, AFDC, AB or DA and also received RSI benefits and who became ineligible for OAA, AFDC, AB or DA solely because of the twenty percent increase in social security benefits under Public Law 92-336, and

(b) Current applicants for AFDC or FAMCO who were entitled to RSI benefits in August 1972 and would have been eligible for OAA, AFDC, AB or DA in August 1972 but are not currently eligible solely because of the twenty percent increase in social security benefits

under Public Law 92-336. [Order 1233, § 388-83-045, filed 8/31/77; Order 1196, § 388-83-045, filed 3/3/77; Order 1151, § 388-83-045, filed 9/8/76; Order 1061, § 388-83-045, filed 10/8/75; Order 994, § 388-83-045, filed 12/31/74; Order 922, § 388-83-045, filed 4/15/74; Order 911, § 388-83-045, filed 3/1/74; Order 879, § 388-83-045, filed 11/29/73; Order 835, § 388-83-045, filed 7/26/73; Order 787, § 388-83-045, filed 4/12/73; Order 678, § 388-83-045, filed 5/10/72; Order 628, § 388-83-045, filed 11/24/71; Order 579, § 388-83-045, filed 7/20/71; Order 548, § 388-83-045, filed 3/31/71, effective 5/1/71; Order 497, § 388-83-045, filed 11/25/70, effective 1/1/71; Order 419, § 388-83-045, filed 12/31/69; Order 405, § 388-83-045, filed 11/24/69; Order 301, § 388-83-045, filed 9/6/68; Order 264 (part), § 388-83-045, filed 11/24/67.]

**WAC 388-83-050 Availability of resources.** (1) In establishing eligibility for medical care, only resources actually available after applying the department's rules for disregarding or setting aside any resource for the future needs of an applicant or recipient shall be considered. Nonexempt real property shall be considered as available only when it is identified as being under the control of the applicant, "in hand", or will be available within a three-month period, including the month in which the services were rendered.

(2) If a minor applies for medical care other than for obstetrical care the parent legally responsible for the support of the minor is also by law financially responsible for the payment for medical care provided to the minor. In such case the standards in WAC 388-83-035 shall apply to determine available income to meet the medical care needs of the minor. See also WAC 388-24-550, 388-28-350 and 388-28-355. For a pregnant minor see WAC 388-82-015(1)(a)(i).

(3) For a foster child, other than an AFDC-FC, for whom the department is making a foster care payment, only income and resources of the child are considered available in determining eligibility. [Order 1202, § 388-83-050, filed 4/1/77; Order 1097, § 388-83-050, filed 2/13/76; Order 879, § 388-83-050, filed 11/29/73; Order 333, § 388-83-050, filed 2/3/69; Order 264 (part), § 388-83-050, filed 11/24/67.]

**WAC 388-83-055 Exempt resources.** The following resources shall be classified as exempt in determining eligibility for the medical care program:

(1) For recipients of grants, exempt resources shall follow standards for the appropriate grant program.

(2) For an applicant recipient for federal aid medical care only (FAMCO), rules for exempt resources shall follow WAC 388-92-045 and 388-92-050. When separate property is a consideration, see WAC 388-28-365 and 388-28-370.

(3) For an applicant/recipient for the medical only (MO) program, rules for exempt resources shall follow WAC 388-28-420 and 388-28-430(1). Cash, marketable securities, or any nonexempt resource which can be converted into cash shall be considered available toward meeting the costs of medical care. A used and useful automobile shall be exempt. See WAC 388-83-

045(7)(d) for allocation of nonexempt resources and WAC 388-83-065 for transfer of resources.

(4) Consideration shall also be given the potential earning power of the applicant or recipient of medical only (MO). For example, even if an applicant has no cash resources, his current employment or his possibility of employment in the future, as evidenced by his past opportunities, may be such that he could be reasonably expected to pay all or part of the cost of his medical care out of future earnings. [Order 1233, § 388-83-055, filed 8/31/77; Order 1158, § 388-83-055, filed 10/6/76; Order 780, § 388-83-055, filed 3/16/73; Order 710, § 388-83-055, filed 9/14/72; Order 419, § 388-83-055, filed 12/31/69; Order 400, § 388-83-055, filed 11/5/69; Order 301, § 388-83-055, filed 9/6/68; Order 264 (part), § 388-83-055, filed 11/24/67.]

**WAC 388-83-060 Nonexempt resources.** All resources not specifically exempted in WAC 388-83-055 shall be considered available for medical and non-medical needs following priorities set forth in WAC 388-83-035 through 388-83-045. Value shall be assigned resources according to WAC 388-28-450 and 388-28-455.

(1) The possession of a non-exempt resource affects eligibility for medical care. Except for non-exempt real property, the value assigned to such resources shall be the "fair market value". The "fair market value" of the resource is considered available toward the cost of medical care. Such amount is considered at the time of each review for as long as the resource is possessed by the applicant. See WAC 388-85-020.

(2) In assigning the value to non-exempt real property as described in WAC 388-28-455, the following sequence shall be followed:

(a) First consideration shall be given to the sale of non-exempt real property based on the "quick sale value".

(b) If the sale is not possible, rental or lease must be considered with the income derived from such rental or lease being considered available to meet the cost of medical care.

(c) If the property cannot be sold, rented, or leased and if the applicant has used reasonable diligence in seeking a purchaser, renter, or leasee, then no resource value for this property shall be considered to exist for the purpose of determining eligibility. The property shall remain on the market for as long as the applicant is certified for medical care.

(i) If the applicant refuses to dispose of his property or refuses to attempt to dispose of his property as outlined in (2), (a), (b), and (c) above, his application for medical assistance shall be denied. [Order 400, § 388-83-060, filed 11/5/69; Order 264 (part), § 388-83-060, filed 11/24/67.]

**WAC 388-83-065 Transfer of resources within two years prior to application.** (1) An applicant for an AFDC grant, continuing assistance or medical only (MO) who transfers any resource within two years immediately prior to the date of application (or during the application period) without having received adequate

consideration for such property shall be deemed to have a nonexempt resource available to meet his medical needs.

(2) The amount considered available to meet medical need shall be the difference between the reasonable value of the consideration received for the transferred property and the reasonable value of the property transferred. In determining this amount the rules in WAC 388-26-220 and 388-26-225 shall be considered.

(3) The applicant is ineligible if the amount considered available exceeds medical need according to WAC 388-84-020. If eligible with participation see WAC 388-83-045. [Order 1233, § 388-83-065, filed 8/31/77; Order 930, § 388-83-065, filed 4/25/74.]

### Chapter 388-84 WAC MEDICAL CARE—APPLICATION

#### WAC

388-84-005	Right to apply.
388-84-010	Disposition of application.
388-84-015	Approval of application.
388-84-020	Denial of application.
388-84-025	Withdrawal.

**WAC 388-84-005 Right to apply.** (1) All individuals wishing to make application for medical care shall have an opportunity to do so.

(a) Application shall mean a request for medical care made to the local office verbally or in writing by a person in his own behalf or in behalf of another person, except that verbal applications must be reduced to writing before payment for care can be made. If death of the applicant intervenes, his relatives or other interested persons may complete the application form. Any type of contact pertaining to a request for medical care made with any staff member of a local office by an individual or a person acting in his behalf is construed as an official notification and the beginning of the application process.

(b) The applicant, or anyone acting in his behalf, is required to participate to the fullest extent possible in the application process. It is the responsibility of the applicant to provide such information and material pertinent to his financial affairs and resources, etc., as is necessary to establish a determination of financial eligibility. Verification of resources by the department shall be limited to those reasonably necessary to determine the extent to which the available resources may be utilized.

(c) Application procedures in WAC 388-38-030 through 388-38-050 will be followed.

(2) Eligibility for medical services received before the date of application may be retroactively certified and approved for payment provided that

(a) The individual would have satisfied all eligibility requirements for federal aid medical care only at the time the medical services were furnished,

(b) The medical services received were consistent with the scope of care which may be provided to FAMCO recipients,

(c) The unpaid bills were incurred no earlier than the first day of the third month preceding the month of application for medical assistance,

(d) The local office was notified of unpaid bills before the end of the billing limitation period for FAMCO recipients (see WAC 388-87-015(3)) or supplemental security income beneficiaries (see WAC 388-87-015(4)). For certification of recipients of medical care only see WAC 388-86-120(2).

(3) For an applicant who is a resident of Washington temporarily out of the state (for definition see WAC 388-30-055), an application may be made by an individual, person or an agency acting in his behalf directly to the local office.

(4) The applicant shall be given:

(a) DSHS 16-04 (16PA04) with an explanation of the civil rights act,

(b) DSHS 16-03 (16PA03) fair hearing information,

(c) Family planning information, when appropriate. [Order 1233, § 388-84-005, filed 8/31/77; Order 995, § 388-84-005, filed 12/31/74; Order 879, § 388-84-005, filed 11/29/73; Order 793, § 388-84-005, filed 4/26/73; Order 764, § 388-84-005, filed 1/10/73; Order 629, § 388-84-005, filed 11/24/71; Order 473, § 388-84-005, filed 8/19/70; Order 302, § 388-84-005, filed 9/6/68; Order 264 (part), § 388-84-005, filed 11/24/67.]

**WAC 388-84-010 Disposition of application.** (1) "Decision" is defined as a substantiated finding of eligibility or ineligibility. The applicant shall be notified in writing of the decision.

(2) Decision on an application shall be made with reasonable promptness but not later than 30 days from date of the request, except for a situation in which circumstances such as a critical condition of an applicant or his death following application, may delay the determination of eligibility.

(3) For medical assistance (MA) related to Title XVI disability, see WAC 388-92-020(3) and 388-92-060(1). [Order 1111, § 388-84-010, filed 4/15/76; Order 995, § 388-84-010, filed 12/31/74; Order 938, § 388-84-010, filed 5/23/74; Order 302, § 388-84-010, filed 9/6/68; Order 264 (part), § 388-84-010, filed 11/24/67.]

**WAC 388-84-015 Approval of application.** (1) All applicants shall be informed by means of an award letter of the action taken by the department and the amount of participation, if any. When there is participation, copies of the award letter shall be sent to the provider(s) and to professional audit. (See WAC 388-83-005).

(2) Individuals approved for federal aid or continuing general assistance grants and for federal aid medical care only shall be issued a temporary identification booklet until the next warrant roll is processed. When there is another medical resource, the temporary identification booklet shall indicate such resource below the names on each coupon.

(3) The financially approved applicant for medical care only or the recipient of noncontinuing general assistance not relatable to federal aid or Title XVI programs, who has an acute and emergent medical



condition and who has satisfied the deductible shall be issued an identification booklet specifying limitations on care and listing all other medical resources at the bottom of the booklet. [Order 1203, § 388-84-015, filed 4/1/77; Order 938, § 388-84-015, filed 5/23/74; Order 879, § 388-84-015, filed 11/29/73; Order 711, § 388-84-015, filed 9/14/72; Order 695, § 388-84-015, filed 6/29/72; Order 591, § 388-84-015, filed 8/25/71; Order 435, § 388-84-015, filed 3/31/70; Order 302, § 388-84-015, filed 9/6/68; Order 264 (part), § 388-84-015, filed 11/24/67.]

**WAC 388-84-020 Denial of application.** (1) An application for medical care shall be denied when:

(a) An applicant for federal aid medical care only does not claim to have a medical need at the time of application or who is not exempt from this requirement by WAC 388-83-027(2) or (3) or (4),

(b) An applicant for medical only does not have an acute and emergent medical condition and has not satisfied the \$100 deductible,

(c) The amount of participation with excess income will obviously exceed the cost of medical care,

(d) The applicant refuses to dispose of nonexempt resources or refuses to attempt to dispose of such resources.

(2) When an application is denied, the applicant shall be notified in writing of the specific reason(s) for the denial and shall be informed of the right to a fair hearing. See WAC 388-38-172. [Order 1203, § 388-84-020, filed 4/1/77; Order 788, § 388-84-020, filed 4/12/73; Order 737, § 388-84-020, filed 11/22/72; Order 695, § 388-84-020, filed 6/29/72; Order 629, § 388-84-020, filed 11/24/71; Order 580, § 388-84-020, filed 7/20/71; Order 419, § 388-84-020, filed 12/31/69; Order 264 (part), § 388-84-020, filed 11/24/67.]

**WAC 388-84-025 Withdrawal.** Withdrawal of an application shall be treated as in WAC 388-38-172. [Order 695, § 388-84-025, filed 6/29/72; Order 264 (part), § 388-84-025, filed 11/24/67.]

**Chapter 388-85 WAC**

**MEDICAL CARE—AUTHORIZATION OF ELIGIBILITY**

**WAC**

- 388-85-005 Certification document.
- 388-85-010 Authorization procedure.
- 388-85-015 Period of certification.
- 388-85-020 Redetermination of eligibility.
- 388-85-025 Notification—Initial certification, redetermination of eligibility and change of circumstances.
- 388-85-027 Effective date of change in eligibility.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 388-85-125 Continuing eligibility of grandfathered recipient of federal aid medical care only—Criteria. [Order 952, § 388-85-125, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-130 Continuing eligibility of grandfathered recipient of federal aid medical care only—Blindness defined.

[Order 952, § 388-85-130, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.

388-85-135 Continuing eligibility of grandfathered recipient of federal aid medical care only—Permanently and totally disabled defined. [Order 952, § 388-85-135, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.

388-85-140 Continuing eligibility of grandfathered recipient of federal aid medical care only—Refusal of disabled recipient to accept available and recommended medical treatment—Effect on eligibility. [Order 952, § 388-85-140, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.

388-85-145 Continuing eligibility of grandfathered recipient of federal aid medical care only—Annual review. [Order 952, § 388-85-145, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.

388-85-150 Continuing eligibility of grandfathered recipient of federal aid medical care only—Application following termination of eligibility. [Order 952, § 388-85-150, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.

**WAC 388-85-005 Certification document.** An applicant is certified in DSHS 7-01 when his eligibility for the medical care program has been determined. This document serves as the basis for vendor(s) payment. [Order 952, § 388-85-005, filed 7/16/74; Order 264 (part), § 388-85-005, filed 11/24/67.]

**WAC 388-85-010 Authorization procedure.** (1) For an applicant for medical care also applying for a continuing grant, medical care shall be authorized first, unless eligibility for the grant can be established concurrently, as the date of certification for care will precede the effective date of the grant.

(a) If the applicant is found eligible for medical care but not a grant, denial of the grant follows WAC 388-38-172; such denial will not affect eligibility for medical care.

(b) Certification for federal aid medical care only, which is related to Title XVI of the social security act, or for medical care services does not carry over to such applicant's spouse. The spouse's category for care is individually determined and authorized separately; however, for those individuals who were recipients of federal aid grants or would have been eligible for federal aid grants in August 1972 and who were also RSDI beneficiaries and whose grants were terminated or would have been terminated solely because of the twenty percent increase under Public Law 92-336 need not have their spouses' eligibility for FAMCO determined separately. Certification for these individuals will be determined as though eligibility exists for the appropriate grant category.

(2) When a continuing grant recipient becomes ineligible for a grant, eligibility for medical care shall be re-determined. If there is a current medical need and the recipient is otherwise eligible, no new application is required. See WAC 388-83-027(5). [Order 1196, § 388-85-010, filed 3/3/77; Order 952, § 388-85-010, filed 7/16/74; Order 789, § 388-85-010, filed 4/12/73; Order 419, § 388-85-010, filed 12/31/69; Order 384, § 388-85-010, filed 8/27/69; Order 264 (part), § 388-85-010, filed 11/24/67.]

**WAC 388-85-015 Period of certification.** (1) For the recipient of federal aid medical care only (FAMCO), the period of certification may be up to six months, depending upon the anticipated duration of medical need, except that FAMCO related to aid to families with dependent children—employable (AFDC-E), may be certified only to a maximum of three months. (See WAC 388-83-027(5) for exception.)

(2) For such recipient in a skilled nursing home, state mental hospital, state school for the retarded, intermediate care facility, or tuberculosis sanatorium with which the department has an agreement to provide care, no termination date is shown on the certification document; eligibility however, must be received within one year.

(3) For medical care services the period of certification shall be for one condition and not to exceed three months. The recipient of continuing general assistance who cannot be related to a federal aid category continues to be eligible for full scope medical care as long as the grant continues but is not eligible for out-of-state care.

(4) A recipient of noncontinuing general assistance who cannot be related to a federal aid category and an applicant for medical only shall not be authorized medical care unless an acute and emergent condition exists as defined in WAC 388-86-032 and 388-86-120(2)(a), and until a deductible of \$100 per family has been satisfied subsequent to initial application. The certification period for medical only shall be for only as long as the acute and emergent condition is estimated to exist but the period of certification shall not exceed three months. [Order 1233, § 388-85-015, filed 8/31/77; Order 952, § 388-85-015, filed 7/16/74; Order 776, § 388-85-015, filed 3/1/73; Order 679, § 388-85-015, filed 5/10/72; Order 565, § 388-85-015, filed 5/19/71; Order 384, § 388-85-015, filed 8/27/69; Order 264 (part), § 388-85-015, filed 11/24/67.]

**WAC 388-85-020 Redetermination of eligibility.** (1) Eligibility for medical care shall be redetermined no less often than every six months for a recipient of federal aid medical care only, except that

(a) for a recipient of FAMCO related to AFDC-E, eligibility shall be redetermined no less often than every three months (see WAC 388-83-027(5) for exception),

(b) for a recipient in a skilled nursing home, psychiatric facility, state school for the retarded, intermediate care facility or tuberculosis sanatorium, eligibility shall be redetermined within one year.

(2) Eligibility for a person receiving medical care and a grant shall be redetermined according to the policies and procedures for financial assistance specified in WAC 388-30-125 through 388-30-135.

(3) Any person receiving medical care who comes into possession of property, resources, or income in excess of that amount previously declared, shall notify the department immediately. Eligibility shall be redetermined within thirty days following an indication of a change in circumstances. [Order 952, § 388-85-020, filed 7/16/74; Order 776, § 388-85-020, filed 3/1/73; Order 712, § 388-85-020, filed 9/14/72; Order 565, § 388-

85-020, filed 5/19/71; Order 334, § 388-85-020, filed 2/3/69; Order 264 (part), § 388-85-020, filed 11/24/67.]

**WAC 388-85-025 Notification—Initial certification, redetermination of eligibility and change of circumstances.** A person not receiving a grant shall be notified in writing when his eligibility for federal aid medical care only (FAMCO) or medical care only (MO) is initially certified, or is redetermined, or when there is any change in his financial circumstances. [Order 712, § 388-85-025, filed 9/14/72.]

**WAC 388-85-027 Effective date of change in eligibility.** When a change of circumstances renders the client ineligible the effective date of ineligibility is the first of the month following the month in which the change occurred. [Order 1137, § 388-85-027, filed 7/29/76.]

## Chapter 388-86 WAC

### MEDICAL CARE—SERVICES PROVIDED

#### WAC

388-86-005	Services available to recipients of medical assistance.
388-86-010	Anesthetization services.
388-86-012	Audiometric services.
388-86-015	Blood.
388-86-020	Dental services.
388-86-023	Chiropractic services.
388-86-027	Early and periodic screening, diagnosis and treatment of eligible individuals under twenty-one years of age.
388-86-030	Eyeglasses and examinations.
388-86-032	Exceptions—Treatment for acute and emergent conditions.
388-86-035	Family planning.
388-86-040	Hearing aids.
388-86-045	Home health services.
388-86-050	Inpatient hospital care.
388-86-055	Laboratory services.
388-86-060	Medical care for prisoners.
388-86-065	Medical-social services.
388-86-067	Mental health center services.
388-86-070	Nursing services.
388-86-075	Outpatient and emergency care.
388-86-080	Oxygen service.
388-86-085	Patient transportation.
388-86-090	Physical therapy.
388-86-095	Physicians' services.
388-86-097	Respiratory therapy services.
388-86-098	Speech therapy services.
388-86-100	Surgical appliances—Prosthetic devices—Aids to mobility.
388-86-105	Voluntary agency—Child or unwed mother receiving foster care.
388-86-110	X-ray services.
388-86-112	Physical medicine and rehabilitation evaluation and review.
388-86-115	Medical care provided out-of-state.
388-86-120	State financed medical care services.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-86-025	Drugs and pharmaceutical supplies. [Order 264 (part), § 388-86-025, filed 11/24/67.] Repealed by Order 316, filed 10/31/68.
388-86-083	Patient care supplies. [Order 499, § 388-86-083, filed 12/2/70.] Repealed by Order 1112, filed 4/15/76.

**WAC 388-86-005 Services available to recipients of medical assistance.** (1) For recipients of medical assistance (MA), the department shall authorize ambulance service and other means of transportation for medical reasons, early and periodic screening services to eligible individuals under twenty-one years of age, family planning services, home health agency services, inpatient and outpatient hospital care, other laboratory and x-ray services, skilled nursing home care, and physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) Within limitations of available funds, the following services shall also be authorized: anesthetization services; blood; dental services; drugs and pharmaceutical supplies; eyeglasses and examination; hearing aids and examinations; medical-social services; oxygen; physical therapy services; special-duty nursing services; surgical appliances, prosthetic devices, and certain other aids to mobility.

(3) Treatment, transplants, dialysis, equipment and supplies for acute and chronic nonfunctioning kidneys are provided in the home, hospital and kidney center. (See WAC 388-86-050(5)).

(4) Organ transplants, other than kidney transplants are not provided as a part of physician services or hospital care authorized under the medical assistance program.

(5) Treatment to detoxify narcotic addiction cases in a hospital or on an outpatient basis is not provided as a part of the medical care program. The department will provide treatment for concurrent diseases and complications.

(6) Detoxification of an acute alcoholic condition will be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities. [Order 994, § 388-86-005, filed 12/31/74; Order 970, § 388-86-005, filed 9/13/74; Order 911, § 388-86-005, filed 3/1/74; Order 858, § 388-86-005, filed 9/27/73; Order 781, § 388-86-005, filed 3/16/73; Order 738, § 388-86-005, filed 11/22/72; Order 680, § 388-86-005, filed 5/10/72; Order 630, § 388-86-005, filed 11/24/71; Order 581, § 388-86-005, filed 7/20/71; Order 549, § 388-86-005, filed 3/31/71, effective 5/1/71; Order 453, § 388-86-005, filed 5/20/70, effective 6/20/70; Order 419, § 388-86-005, filed 12/31/69; Order 264 (part); § 388-86-005, filed 11/24/67.]

**WAC 388-86-010 Anesthetization services.** The department shall authorize and pay for the needed services of an anesthesiologist, or nurse anesthetist who is not a regular employee of the hospital. These services do not require separate approval by the medical consultant; however, their billings must bear a cross reference to the surgeon and the patient's diagnosis when submitted for payment.

When anesthesia is administered on an outpatient basis, such as a local injection to relieve pain while suturing a wound, only the cost of the drug and disposable needle and syringe may be billed. [Order 264 (part), § 388-86-010, filed 11/24/67.]

**WAC 388-86-012 Audiometric services.** (1) Evaluation of hearing by audiometric equipment is available to recipients of continuing assistance or FAMCO when:

(a) Testing is not solely to determine need for a hearing aid, see WAC 388-86-040(2)(e), and is

(b) Administered by an approved audiologist and/or specialist in ENT, and

(c) Provided in connection with medical diagnosis and treatment. [Order 1202, § 388-86-012, filed 4/1/77.]

**WAC 388-86-015 Blood.** The department shall provide for purchase of needed whole blood or plasma, subject to limitations as set forth in WAC 388-87-045. [Order 335, § 388-86-015, filed 2/3/69; Order 264 (part), § 388-86-015, filed 11/24/67.]

**WAC 388-86-020 Dental services.** (1) The department shall provide dental care subject to limitations and conditions set forth in the contract between the department and the Washington dental service.

(2) Prior authorization is required for basic dental services for recipients of medical assistance (MA) and for continuing general assistance (GAU). Prior authorization is not required for emergency dental care as defined in the contract if all needed services are completed within fourteen days from the date of first examination. For dental services provided to recipients of EPSDT see WAC 388-86-027(1)(c) and (3). For out-of-state dental care see WAC 388-86-115(5).

(3) Dental services for recipients of noncontinuing general assistance who cannot be related to a federal aid program or to Title XVI, or recipients of medical only (MO) who have satisfied the deductible of \$100 are subject to the following limitations.[:]

(a) No care is provided outside the state of Washington except in border situations as specified in WAC 388-82-030(4).

(b) Dental treatment is limited to the relief of pain, which may or may not involve extraction, and surgical repair of the maxilla and/or mandible.

(4) Other services, including dentures, not considered basic services may be provided only by prior approval of the department's dental consultant, within limitations of available funds.

(5) Dentures provided by the department but subsequently lost will not be replaced except in extenuating circumstances and only when approved in advance by the chief of the office of medical assistance.

(6) Hospitalization for dental conditions, other than acute and emergent, requires *prior* approval of the chief of the office of medical assistance or his designee. Hospitalization for acute and emergent dental conditions requires approval. [Order 1162, § 388-86-020, filed 10/13/76; Order 1112, § 388-86-020, filed 4/15/76; Order 938, § 388-86-020, filed 5/23/74; Order 738, § 388-86-020, filed 11/22/72; Order 696, § 388-86-020, filed 6/29/72; Order 581, § 388-86-020, filed 7/20/71; Order 453, § 388-86-020, filed 5/20/70, effective 6/20/70; Order 385, § 388-86-020, filed 8/27/69; Order 264 (part), § 388-86-020, filed 11/27/67.]

**WAC 388-86-023 Chiropractic services.** (1) Within the limitations of funds appropriated for chiropractic services of a chiropractor, licensed by the state of Washington to perform within the scope of his license, shall be authorized.

(2) Services shall be subject to the following:

(a) Services shall be confined to treatment of recipients of continuing state or federal aid grants or federal aid medical care only.

(b) Treatment shall be restricted to adjustment by hand any subluxation of the spine.

(c) X-rays shall be limited only to the following spinal areas:

(i) Cervical, anterior-posterior and lateral,

(ii) Thoracic (dorsal), anterior-posterior and lateral,

(iii) Lumbar and/or lumbo-sacral, anterior-posterior and lateral.

(d) Chiropractic consultation requires prior approval by the state office except that three treatments for acute and emergent conditions may be given out of state without prior approval for recipients related to federal programs.

(3) An eligible recipient desiring the services of a chiropractor shall have free choice of such services.

(4) Limitations specified in preceding subsections of this rule and in WAC 388-87-047 are absolute; no deviation will be permitted. [Order 1166, § 388-86-023, filed 10/27/76; Order 1112, § 388-86-023, filed 4/15/76; Order 891, § 388-86-023, filed 12/27/73; Order 696, § 388-86-023, filed 6/29/72; Order 581, § 388-86-023, filed 7/20/71; Order 453, § 388-86-023, filed 5/20/70, effective 6/20/70; Order 385, § 388-86-023, filed 8/27/69.]

**WAC 388-86-027 Early and periodic screening, diagnosis and treatment of eligible individuals under twenty-one years of age.** (1) The department will make available to individuals under twenty-one years of age (see WAC 388-86-005) who are recipients of medical assistance (MA), early and periodic screening and diagnosis to ascertain their physical and/or mental defects, and preventive health care and treatment to correct or ameliorate the defects and chronic conditions discovered thereby, to the extent provided under these rules. There will be freedom of choice in obtaining screening services from among participating providers. The following services are included in the program:

(a) Screening by providers of screening services that have been authorized by the health services division to provide at least the following items:

(i) medical history

(ii) assessment of physical growth

(iii) developmental assessment (physical and mental)

(iv) inspection for obvious defects

(v) inspection of ears, nose, mouth, teeth and throat

(vi) visual screening; auditory testing

(vii) screening for cardiac abnormalities

(viii) screening for anemia

(ix) urine screening

(x) blood pressure (children 12 years of age or older)

(xi) assessment of immunization status and updating immunization.

(b) When indicated by screening findings, providers of screening services will provide, or refer eligible children for more definitive diagnostic study and/or treatment.

(c) Treatment shall be limited to the same amount, duration, and scope of care available to other recipients of medical assistance (MA), except regardless of any such limitations, eyeglasses, hearing aids and other kinds of treatment for visual and hearing defects, and at least such dental care as is necessary for relief of pain and infection and for restoration of teeth and maintenance of dental health shall be provided for those determined to be in need of such care, subject, however, to such utilization controls as may be imposed by the department.

(2) The EPSDT requirement applies to all individuals under 21 years of age who are determined to be eligible for medical assistance (MA).

(3) EPSDT represents an exception to the requirement for comparability of services under Title XIX. EPSDT services to individuals under 21 years of age may be provided without providing similar services for those over 21. [Order 1112, § 388-86-027, filed 4/15/76; Order 738, § 388-86-027, filed 11/22/72.]

**WAC 388-86-030 Eyeglasses and examinations.** (1) The department shall provide eyeglasses and examinations. Payment shall be made on the basis of rates established by the department or through HMO or optical supplier contracts.

(2) Prior authorization by the medical consultant or his designee in the county of residence is required for eye examinations and the provision of certain eyeglasses. Eye examinations performed on Saturdays or holidays when ESSO's are closed may be post-authorized if such authority would have been issued normally.

(3) Examinations, unless medically indicated, are limited to one in a twelve-month period, except for eye examinations and eyeglasses provided to recipients of EPSDT, see WAC 388-86-027(1)(c) and (3). [Order 1233, § 388-86-030, filed 8/31/77; Order 1203, § 388-86-030, filed 4/1/77; Order 1112, § 388-86-030, filed 4/15/76; Order 994, § 388-86-030, filed 12/31/74; Order 738, § 388-86-030, filed 11/22/72; Order 385, § 388-86-030, filed 8/27/69; Order 264 (part), § 388-86-030, filed 11/24/67.]

**WAC 388-86-032 Exceptions—Treatment for acute and emergent conditions.** (1) The scope of care for persons eligible for noncontinuing general assistance or medical only is limited to the treatment of acute and emergent conditions only. However, certain nonacute and nonemergent conditions if not treated by conservative means may result in severe complications. As specified in this section exceptions to the rule limiting treatment to acute and emergent conditions may be granted by the ESSO when approved by the local medical consultant.

(2) Maternity care for persons not categorically related or eligible under "H" program. This will usually apply only to nonresidents who have no medical coverage through the state of residence and for out-of-state child welfare services cases. Care may include prenatal,

delivery, post partum, and such ancillary medical services as may be requested by the attending physician and approved by the medical consultant.

(3) Rabies prevention inoculation. Treatment for rabies is considered acute and emergent. Initial treatment may be started on an emergency basis; however, the approval of the medical consultant must be requested within fourteen days, including date treatment was initiated. Rabies serum shall be requested from the epidemiology section of the department's division of health services, Olympia.

(4) Drugs for former patients of state mental institutions. Tranquilizers, anti-depressants, antiepileptics, and agents used for treatment of drug-induced Parkinsonism may be provided to former patients of state hospitals and schools for the mentally retarded. The attending physician prescribes the necessary drugs on form DSHS 13-32 and mails the prescription directly to the institution.

(5) Certain necessary drugs for conditions such as cardiovascular disease, diabetes, epilepsy, nephritis, and carcinoma may be prescribed subject to approval by the local medical consultant. Examples of such drugs are cardiac control agents, insulin and oral anti-diabetic tablets, anti-convulsant agents, urinary anti-infective agents, broncho-dilator agents and antineoplastics. [Order 1203, § 388-86-032, filed 4/1/77; Order 680, § 388-86-032, filed 5/10/72; Order 581, § 388-86-032, filed 7/20/71.]

**WAC 388-86-035 Family planning.** The department shall make known to clients the availability of family planning services. The department shall provide to eligible recipients of medical assistance (MA) necessary physicians' services, clinic or hospital services, supplies and drugs needed in conjunction with family planning. See WAC 388-15-240(3) for Title XX services for nonrecipients including minors. [Order 1203, § 388-86-035, filed 4/1/77; Order 781, § 388-86-035, filed 3/16/73; Order 264 (part), § 388-86-035, filed 11/24/67.]

**WAC 388-86-040 Hearing aids.** (1) The department shall provide, within available funds, to recipients who are age 21 or over and eligible for continuing assistance or FAMCO:

(a) One new hearing aid with a one-year warranty which becomes the personal property of the recipient and/or

(b) A one-time repair of a state-owned or privately-owned hearing aid with a 90-day warranty.

Thereafter, the owner is responsible for repairs upon expiration of warranty and for purchase of batteries, any attachments and replacements.

(2) The following criteria must be met:

(a) A minimum of 50 decibel loss in the better ear based on auditory screening by an approved provider

(b) Physical and mental competence to operate the hearing aid instrument

(c) Financial eligibility for continuing assistance or FAMCO

(d) Individuals under age 21 must be referred to the crippled childrens' service conservation of hearing program

(e) Separate reimbursement for audiometric evaluation to determine the need for a hearing aid is not provided. [Order 1202, § 388-86-040, filed 4/1/77; Order 1151, § 388-86-040, filed 9/8/76; Order 738, § 388-86-040, filed 11/22/72; Order 607, § 388-86-040, filed 9/22/71; Order 335, § 388-86-040, filed 2/3/69; Order 264 (part), § 388-86-040, filed 11/24/67.]

**WAC 388-86-045 Home health services.** The department shall provide, within the limitations of funds available, home nursing visits requested by the attending physician and furnished by a home health services agency certified by the division of health. Approval by the office of medical assistance is required for any care extending beyond the second calendar month and any care which exceeds \$350. [Order 1112, § 388-86-045, filed 4/15/76; Order 592, § 388-86-045, filed 8/25/71; Order 435, § 388-86-045, filed 3/31/70; Order 264 (part), § 388-86-045, filed 11/24/67.]

**WAC 388-86-050 Inpatient hospital care.** (1) The department will provide hospitalization for recipients under age sixty-five and for recipients sixty-five and over who have exhausted medicare benefits. With exceptions and limitations listed below, the recipient will have free choice of hospitalization.

(2) Approval by the local medical consultant is required for admission to a hospital.

(3) Department authorization for inpatient hospital care for eligible individuals shall be limited to the lesser of the minimum number of days consistent with practice normally followed in the community or the maximum number of days established at the 75th percentile in the edition adopted by the department of the publication "Length of Stay in PAS Hospitals, United States", unless prior contractual arrangements are made by the department for a specified length of stay (see WAC 388-80-005(44) and 388-87-013(2)). Hospital stays shall be subject to the same utilization review as established for private patients in the community. A daily list of all recipient inpatients with specified information shall be submitted by the hospital to the local medical consultant. In rare instances medical complications develop or new medical conditions are diagnosed which may require care exceeding the maximum number of days of hospitalization provided for under the specified PAS time limits. In such cases, when adequately justified by the attending physician, extensions may be granted by the chief of the office of medical assistance, or by his professional designee, or by the full-time medical consultant in the ESSO or regional office where such is employed.

(a) Eligible recipients are covered for involuntary admissions for acute psychiatric conditions up to a maximum of seventeen days under the Involuntary Treatment Act in hospitals certified as evaluation and treatment facilities. If an involuntarily committed recipient reverts to voluntary status, PAS days are computed from day of

admission and applied to any period exceeding the mandatory seventeen days. If PAS days are less than seventeen, the maximum of seventeen days will prevail.

(b) No payment will be made for care in a private psychiatric hospital that has not been certified under Title XVIII. Authorization for admission of an eligible individual to a private psychiatric hospital shall be under the same conditions and program limitations as for treatment of psychiatric conditions in a general hospital.

(c) Medicaid payment will be made for care in a state mental institution for AFDC recipients or SSI beneficiaries under age 21 and for all recipients age 65 and older. Other age groups are covered under the Involuntary Treatment Act and/or other state funded programs. (See WAC 388-82-025).

(4) The department is prohibited from paying for hospitalization of any individual for the treatment of tuberculosis in a general hospital after such a diagnosis has been established. (See WAC 388-82-025.)

(5) Hospitalization for the treatment of acute and chronic renal failure shall be provided, except that the department shall pay only deductibles and coinsurance for a recipient who is a medicare beneficiary and who is hospitalized for such treatment or for kidney transplant.

(6) Except for an emergency no hospital admission shall be made on Friday or Saturday. For scheduled surgery on Monday, the attending physician may admit the recipient on Sunday to accomplish the necessary preoperative work-up.

(7) Local medical consultant approval for hospitalization of a recipient shall be based on the recipient's need for semi-private accommodations and reimbursement made at the multiple occupancy rate regardless of accommodations provided by the hospital. Special rates may be established for recipients covered by the Involuntary Treatment Act. Semi-private accommodations shall mean not less than two nor more than a four-bed room. [Order 1233, § 388-86-050, filed 8/31/77; Order 1172, § 388-86-050, filed 11/24/76; Order 1061, § 388-86-050, filed 10/8/75; Order 952, § 388-86-050, filed 7/16/74; Order 911, § 388-86-050, filed 3/1/74; Order 858, § 388-86-050, filed 9/27/73; Order 844, § 388-86-050, filed 8/9/73; Order 836, § 388-86-050, filed 7/26/73; Order 762, § 388-86-050, filed 1/2/73; Order 713, § 388-86-050, filed 9/14/72; Order 680, § 388-86-050, filed 5/10/72; Order 615, § 388-86-050, filed 10/7/71; Order 566, § 388-86-050, filed 5/19/71; Order 549, § 388-86-050, filed 3/31/71; effective 5/1/71; Order 519, § 388-86-050, filed 2/24/71; Order 501, § 388-86-050, filed 12/9/70; Order 484, § 388-86-050, filed 10/13/70; Order 474, § 388-86-050, filed 8/19/70; Order 435, § 388-86-050, filed 3/31/70; Order 419, § 388-86-050, filed 12/31/69; Order 385, § 388-86-050, filed 8/27/69; Order 335, § 388-86-050, filed 2/3/69; Order 264 (part), § 388-86-050, filed 11/24/67.]

**WAC 388-86-055 Laboratory services.** The medical consultant's approval is not required for general laboratory procedures.

(1) Laboratory services provided to an inpatient in a hospital will be paid as a part of the total charges submitted for inpatient care in the hospital.

(2) Laboratory services provided on an outpatient basis by physicians in their offices, or through independent laboratories, will be provided to recipients and paid as specified in WAC 388-87-075. [Order 264 (part), § 388-86-055, filed 11/24/67.]

**WAC 388-86-060 Medical care for prisoners.** The department shall provide medical care under the appropriate program for an inmate of a city or county jail or of a juvenile detention facility, unless the local jurisdiction accepts responsibility to provide such care, provided the inmate is financially and medically eligible. [Order 444, § 388-86-060, filed 4/15/70; Order 412, § 388-86-060, filed 12/23/69; Order 264 (part), § 388-86-060, filed 11/24/67.]

**WAC 388-86-065 Medical-social services.** (1) The department shall provide prescribed medical-social services to applicants for, or recipients of, the services of any public assistance program who are in need of:

(a) Casework services at intake to provide short-term services related to personal health care needs

(b) Emergency medical care

(c) Help in meeting the emotional impact of a medical crisis

(d) Rehabilitation services

(e) Referrals to appropriate health care resources

(f) Discharge planning from medical facilities

(g) A protected living situation due to medical need

(h) Ongoing casework services to deal with present and potential health needs and problems.

(2) The department shall have methods of case-finding to identify the particular families, children, and adults who are in need of social services and other activities related to their health and medical care needs. These methods will include the following:

(a) Methods of informing all applicants and recipients of the specific services available from the agency and the procedures to be used in obtaining these services

(b) Arrangements with physicians, medical facilities, and related community resources for their participation in case-finding

(c) Interviews with all of those families and adults found likely to be in need of social services related to medical needs

(d) Interviews with individuals aged sixty-five and over and individuals nearing age sixty-five who are or will be in need of hospitalization in a psychiatric facility, but for whom alternate care arrangements can be made

(e) Other methods as necessary to assure the identification of all adults and families who need medical-social services. [Order 264 (part), § 388-86-065, filed 11/24/67.]

**WAC 388-86-067 Mental health center services.** (1) The department shall provide to a cash beneficiary under Title XVI, an eligible recipient of a continuing state or federal aid grant or federal aid medical care only, mental health services in a community mental health

center. The services provided through these agencies are not subject to the limitation on the number of visits under the provisions of WAC 388-86-095(5).

(2) Community mental health services provided shall be as specified in a contract between the department and the participating center.

(3) For the purposes of this section, community mental health center shall mean an agency or program which meets the following criteria:

(a) Is included as a part of the approved county mental health plan, or county drug treatment plan,

(b) Receives state grant-in-aid funds as authorized by the Community Mental Health Services Act, chapter 71.24 RCW, and as described in WAC 275-25-030,

(c) Provides mental health treatment by, or under the direction of, a licensed doctor of medicine who has sufficient knowledge of the caseload and clinical program to be assured that the quality of the mental health service is satisfactory.

(4) An agency or program must be either:

(a) An outpatient clinic, with its own governing body, administration and staff, or

(b) A county-administered outpatient clinic, or

(c) A separate identifiable outpatient clinic of a general hospital or psychiatric inpatient facility, or

(d) An outpatient clinic with a residential component within its administrative structure, or

(e) A separate identifiable outpatient clinical program of an agency which has other service functions.

(5) Agencies which have functions in addition to outpatient mental health care (see items (4)(c), (d) and (e)) shall adhere to the following criteria:

(a) Specific staff are delineated to provide outpatient clinical services exclusively,

(b) Outpatient clinical records are separated from other service records of the agency,

(c) The center's accounting and bookkeeping procedures are such that:

(i) If the center has an existing contract, a review or audit finds that these procedures assure adequate fiscal accountability. Audits will be conducted by either the department or the office of the state auditor.

(ii) If an agency is applying for a contract, the application will be accompanied by a statement from a licensed or certified public accountant reflecting the accountant's unqualified opinion of the adequacy, accuracy and accountability of the agency's records.

(6) The final decision regarding a mental health center's participation in this program shall be made by the department.

(7) Mental health service records—content:

An adequate clinical record shall be maintained for each eligible client receiving outpatient mental health services in a mental health center. The clinical records at a minimum shall contain the following:

(a) History

(b) Diagnostic/evaluative statements

(c) Treatment plan

(d) Treatment notes

(e) Periodic treatment review

(f) Documentation of case conferences

(g) Clinical summaries on termination of service

(8) Subcontracts:

An agency which has a contract under this section shall not enter into subcontracts for any work agreed upon under the contract without obtaining prior written approval of the department from the office of medical assistance. [Order 1196, § 388-86-067, filed 3/3/77; Order 1067, § 388-86-067, filed 11/17/75; Order 924, § 388-86-067, filed 4/15/74; Order 777, § 388-86-067, filed 3/1/73; Order 696, § 388-86-067, filed 6/29/72; Order 549, § 388-86-067, filed 3/31/71, effective 5/1/71; Order 501, § 388-86-067, filed 12/9/70.]

**WAC 388-86-070 Nursing services.** (1) Nursing service consists of other than routine care in hospitals, nursing homes, or extended care facilities.

(2) Physicians' requests for special-duty nurses for critically ill hospital patients shall be subject to prior approval by the local medical consultant. [Order 1112, § 388-86-070, filed 4/15/76; Order 938, § 388-86-070, filed 5/23/74; Order 264 (part), § 388-86-070, filed 11/24/67.]

**WAC 388-86-075 Outpatient and emergency care.**

(1) No authorization is required for recipients of continuing grants or federal aid medical care only to receive outpatient service, acute and emergent outpatient surgical care and other emergency care performed on an outpatient basis in a hospital. Justification for the service must be presented for payment.

(2) Local medical consultant approval is required for all services provided to recipients of noncontinuing general assistance and medical only. [Order 1196, § 388-86-075, filed 3/3/77; Order 1112, § 388-86-075, filed 4/15/76; Order 696, § 388-86-075, filed 6/29/72; Order 566, § 388-86-075, filed 5/19/71; Order 264 (part), § 388-86-075, filed 11/24/67.]

**WAC 388-86-080 Oxygen service.** (1) Oxygen, including regulators, humidifiers, masks, etc., shall be made available to recipients under age sixty-five in their own homes when requested by the attending physician and approved by the medical consultant.

(2) Oxygen for recipients in skilled nursing homes is available from the nursing homes on the request of the attending physician. Payment to the nursing home is through the use of the medical vendor invoice 525-101.

(3) Recipients age sixty-five and over and others eligible for Part B medicare benefits who are not in a nursing home or hospital shall have oxygen and equipment for its administration available only under medicare. Such persons are not eligible for state owned equipment. [Order 1196, § 388-86-080, filed 3/3/77; Order 1077, § 388-86-080, filed 12/24/75; Order 335, § 388-86-080, filed 2/3/69; Order 303, § 388-86-080, filed 9/6/68; Order 264 (part), § 388-86-080, filed 11/24/67.]

**WAC 388-86-085 Patient transportation.** (1) The department shall provide to eligible individuals transportation for necessary medical or remedial care purposes. (See also WAC 388-87-035).

(2) Ambulance transportation shall be provided when the medical necessity is such that the use of any other method of transportation is inadvisable.

(3) Transportation by private automobile furnished by a friend, relative or by the individual is payable at eight cents a mile.

(4) The recipient of noncontinuing general assistance, not relatable to federal aid for Title XVI programs, or of medical only must have satisfied the deductible of \$100 before transportation is provided for medical reasons.

(5) Providers of ambulance, cabulance, taxi and private automobile transportation service must show medical necessity justification on the billing document. [Order 1230, § 388-86-085, filed 8/23/77; Order 1203, § 388-86-085, filed 4/1/77; Order 1154, § 388-86-085, filed 9/22/76; Order 1112, § 388-86-085, filed 4/15/76; Order 995, § 388-86-085, filed 12/31/74; Order 938, § 388-86-085, filed 5/23/74; Order 754, § 388-86-085, filed 12/14/72; Order 738, § 388-86-085, filed 11/22/72; Order 705, § 388-86-085, filed 8/11/72; Order 696, § 388-86-085, filed 6/29/72; Order 666, § 388-86-085, filed 3/23/72; Order 566, § 388-86-085, filed 5/19/71; Order 484, § 388-86-085, filed 10/13/70; Order 335, § 388-86-085, filed 2/3/69; Order 303, § 388-86-085, filed 9/6/68; Order 264 (part), § 388-86-085, filed 11/24/67.]

**WAC 388-86-090 Physical therapy.** Physical therapy, other than that provided in a hospital as part of inpatient treatment, may be authorized within the availability of funds only when such therapy:

- (1) Will avoid the need for hospitalization, or
- (2) Will reduce the length of stay of a recipient in a nursing home, or
- (3) Will assist the recipient in becoming employable, or
- (4) Is medically indicated in unusual circumstances and is requested by the attending physician and concurred with by the medical consultant, or
- (5) Is performed by a registered physical therapist and has prior approval by the local medical consultant. [Order 1202, § 388-86-090, filed 4/1/77; Order 1151, § 388-86-090, filed 9/8/76; Order 911, § 388-86-090, filed 3/1/74; Order 781, § 388-86-090, filed 3/16/73; Order 474, § 388-86-090, filed 8/19/70; Order 385, § 388-86-090, filed 8/27/69; Order 303, § 388-86-090, filed 9/6/68; Order 264 (part), § 388-86-090, filed 11/24/67.]

**WAC 388-86-095 Physicians' services.** The department shall purchase the services of physicians participating in the program on a fee-for-service basis subject to the exceptions and restrictions listed below.

(1) Physicians' services are provided through contract agreements for certain voluntary child care agencies and maternity homes according to WAC 388-86-105.

(2) Cost of a physical examination is authorized only for recipients related to federal programs under the following circumstances:

(a) For admission to skilled nursing facility if within 48 hours of admission or change of status from a private-pay to a medicaid-eligible patient, see WAC 388-88-095(3).

(b) Given as a screening under the EPSDT program; see WAC 388-86-027.

(c) For physical examination not covered by medicaid, see the following:

- (i) AFDC incapacity, see WAC 388-24-065(3)(c)
- (ii) Determination of whether an individual's health will or will not permit his return to his home, see WAC 388-28-420(4)(b)
- (iii) Request by the claimant or examiner in a fair hearing procedure, see WAC 388-08-503
- (iv) Foster home placement, see WAC 388-70-016(2)
- (v) Adoptive home placement, see WAC 388-70-100(4)
- (vi) Employability for WIN program, see WAC 388-24-107(1)(b)
- (vii) Incapacity for GAU program, see WAC 388-37-032(4).

(3) Combined dosage immunizations are authorized only when not otherwise available through local health facilities at no cost or as part of EPSDT screening.

(4) When covered services of a consultant or specialist are necessary, approval need not be obtained from the medical consultant. Payment shall be made in accordance with local medical bureau practices. A fee for consultation shall not be paid when the specialist subsequently performs surgery or renders treatment for which flat fees or fees-for-service accrue.

(a) On initial or subsequent visits for the purpose of establishing a diagnosis and when services of a specialist or consultant are required, payment shall be limited to not more than two such services. Any additional specialist or consultant requests shall be justified by the attending physician and approved by the medical consultant.

(5) Limitations on payment for physicians' services:

(a) Payment for physicians' calls for nonemergent conditions in the office, home, intermediate care facility, nursing home, or outpatient department of a hospital is limited to one call per month except for screening under the EPSDT program if such screening is an additional visit during the month. Requests for payment for additional visits must be justified on form DSHS 525-100 at the time the billing is submitted by the physician.

(b) Payment for physicians' calls in an extended care facility shall be limited to two calls per month. Requests for payment for additional visits must be justified on form DSHS 525-100 as in subdivision (5)(a).

(c) Payment for treatment of new and acute conditions with necessary X-ray, laboratory and consultative services shall be limited to two calls. Requests for payment for additional calls must be justified on form DSHS 525-100.

(d) On occasion, the physician may treat several members of a family in one office visit. An initial office fee is paid for the first member; payment for the remaining visits will be based on equitable adjustment determined by the medical director.



(e) Payment for hospital calls is limited to one call per day. This is applicable to other than flat fee care.

(f) Treatment for psychiatric or mental conditions by a psychiatrist shall be limited to one hour a month individual psychotherapy or equivalent combinations. When the individual is in an acute phase, however, up to a maximum of two hours psychotherapy may be authorized, when justified, during the first month of treatment. Subdivisions (5)(a) through (5)(e) also apply unless other rules take precedence. See WAC 388-86-067(1) for service provided by a contracting mental health center.

(6) All surgical procedures require approval by the medical consultant.

(a) Nonemergent surgical procedures require prior approval by the chief of the office of medical assistance or his designees, including medical consultants employed full-time by the department.

(7) A recipient of public assistance is not required to obtain medical care in the county of his residence. (See also WAC 388-83-025.)

(8) For limitations on out-of-state physicians' services see WAC 388-86-115. [Order 1230, § 388-86-095, filed 8/23/77; Order 1196, § 388-86-095, filed 3/3/77; Order 1061, § 388-86-095, filed 10/8/75; Order 1019, § 388-86-095, filed 4/30/75; Order 1014, § 388-86-095, filed 3/14/75; Order 938, § 388-86-095, filed 5/23/74; Order 879, § 388-86-095, filed 11/29/73; Order 680, § 388-86-095, filed 5/10/72; Order 501, § 388-86-095, filed 12/9/70; Order 484, § 388-86-095, filed 10/13/70; Order 474, § 388-86-095, filed 8/19/70; Order 419, § 388-86-095, filed 12/31/69; Order 385, § 388-86-095, filed 8/27/69; Order 335, § 388-86-095, filed 2/3/69; Order 303, § 388-86-095, filed 9/6/68; Order 264 (part), § 388-86-095, filed 11/24/67.]

**WAC 388-86-097 Respiratory therapy services.** (1) Respiratory therapy services including intermittent positive pressure breathing (IPPB) machines, nebulizers or other similar equipment shall be available as necessary to permit the recipient to remain in his own home or in a skilled nursing home.

(2) Respiratory therapy services, if approved, may be available through contract to include necessary equipment and routine visits by a respiratory therapist, by loan of state owned respiratory therapy equipment or by visit of an independent respiratory therapist.

(3) For recipients eligible for part B medicare benefits, necessary equipment for respiratory therapy shall, if approved, be purchased and made available on a loan basis.

(4) Recipients living in areas covered by contract shall have approved respiratory therapy services available only through the contract source. [Order 1077, § 388-86-097, filed 12/24/75.]

**WAC 388-86-098 Speech therapy services.** (1) Speech therapy, when required as an adjunct to necessary treatment of a medical or remedial condition for which the department has assumed initial responsibility,

may be authorized subject to the availability of funds and:

(a) The evaluation and/or treatment must have prior approval by the local medical consultant,

(b) The fee for service must be agreed to in advance of therapy,

(c) The services must be performed by a speech pathologist who has been granted the certificate of clinical competence by the American speech and hearing association, or who has completed the equivalent educational and work experience necessary for such a certificate,

(d) The department reserves the right to limit the number of treatments based on professional judgment. See WAC 388-87-025(2)(p). [Order 1202, § 388-86-098, filed 4/1/77.]

**WAC 388-86-100 Surgical appliances—Prosthetic devices—Aids to mobility.** (1) The department shall authorize the purchase or rental of surgical appliances, prosthetic devices, aids to mobility and other durable medical equipment only when such items will

(a) reduce the length of hospitalization,

(b) aid the rehabilitation of an employable person,

(c) enable the person to return to or continue to live in his own home,

(d) be used full time by a nursing home patient who will benefit materially from its use,

(e) result in financial saving to the department.

(2) No approval is required for the purchase of external braces involving the neck, trunk and extremities.

(3) Other nonreusable items costing less than \$150 do not require approval if provision of the appliance will expedite a recipient's release from a hospital.

(4) Prior approval by the office of medical assistance is required for:

(a) Purchase of reusable medical appliances and aids to mobility costing more than \$50,

(b) Purchase of nonreusable surgical appliances or prosthetic devices costing more than \$100, except as described in subsection (2),

(c) Rental of durable medical equipment regardless of cost,

(d) All repairs to state or privately owned equipment. All other appliances require prior approval by the local medical consultant.

(5) A recipient who has medicare Part B benefits must utilize this resource for the purchase or rental of any items provided by medicare. Payment of medicare coinsurance and deductibles by the department for purchase of all items costing more than \$50, except as described in subsection (2), and for all rentals must have prior approval of the office of personal health services.

(6) Reusable medical appliances belong to the state and are supplied to eligible recipients on a loan basis. [Order 1233, § 388-86-100, filed 8/31/77; Order 1019, § 388-86-100, filed 4/30/75; Order 938, § 388-86-100, filed 5/23/74; Order 499, § 388-86-100, filed 12/2/70; Order 480, § 388-86-100, filed 9/22/70; Order 463, § 388-86-100, filed 6/23/70; Order 419, § 388-86-100, filed 12/31/69; Order 385, § 388-86-100, filed 8/27/69; Order 264 (part), § 388-86-100, filed 11/24/67.]

**WAC 388-86-105 Voluntary agency—Child or unwed mother receiving foster care.** (1) Medical care shall be provided for a child or unmarried mother certified as eligible for foster care payments by the department, and receiving the services of a voluntary agency or maternity home under a choice of one of two plans. The two plans are identified as plan A and plan B. The choice of the plan is the responsibility of the voluntary agency.

(2) Under plan A the voluntary agency and the department sign an agreement whereby the agency independently provides and pays for all necessary medical care for the eligible child or unmarried mother served by the agency. The agency shall bill the department monthly at the agreed per capita rate, and may not seek remuneration from the department over and above this rate.

(3) Under plan B the department shall provide medical care for an eligible child or unmarried mother served by the agency on the same basis that such care would be provided any other individual eligible for federal aid medical care only. [Order 1151, § 388-86-105, filed 9/8/76; Order 482, § 388-86-105, filed 9/29/70, effective 11/1/70; Order 463, § 388-86-105, filed 6/23/70; Order 264 (part), § 388-86-105, filed 11/24/67.]

**WAC 388-86-110 X-ray services.** (1) Therapeutic x-rays (deep x-ray and related radiation treatment) will be provided when requested by the attending physician and approved in advance by the medical consultant.

(2) Diagnostic and follow-up x-rays do not require the approval of the medical consultant, but films shall be made available to the consultant on request. [Order 264 (part), § 388-86-110, filed 11/24/67.]

**WAC 388-86-112 Physical medicine and rehabilitation evaluation and review.** (1) The department may authorize physical medicine and rehabilitation inpatient evaluation and review for a period not exceeding one week when all the following conditions are met:

(a) The person suffers from severe motor disabilities following accident or illness such as stroke,

(b) The person has been rejected by the department's division of vocational rehabilitation for such medical service on the basis that there is little or no potential for gainful employment,

(c) Physical medicine and rehabilitation treatment would potentially enable the person to move from the hospital to a nursing home or from a nursing home to adult family home or from an adult family home into his own assisted and/or independent living situation, or afford the bedridden person cared for in his own home a degree of self-care and independence,

(d) No other financial resources are available,

(e) Prior approval of the state office of personal health services is obtained.

(2) Extension of the evaluation and review for a period up to ninety days may be authorized by the office of personal and health service if requested and justified by the physical medicine and rehabilitation facility. [Order 964, § 388-86-112, filed 8/19/74.]

**WAC 388-86-115 Medical care provided out-of-state.** (1) The department shall authorize and provide comparable medical care services to an eligible recipient who is temporarily outside the state (for definition of "temporarily", see WAC 388-30-055) to the same extent that such medical care services are furnished to an eligible recipient in the state, subject to the exceptions and limitations in this section.

(2) Border situations mentioned in WAC 388-82-030(4) are not considered "out-of-state" and are excluded from these provisions. However, a recipient who visits another state, other than specified border locations, specifically for the purpose of obtaining medical care is not eligible for such care at the expense of the state of Washington.

(3) A recipient who moves to another state for the purpose of establishing residence in that state is not eligible for medical care after eligibility has been terminated by the department.

(a) When determining the effective date of change in the eligibility of a recipient of a federal aid grant, see WAC 388-33-135 for appropriate guidelines. Medical care coverage terminates the same date as termination of the grant.

(b) The date of termination of eligibility for medical care for a recipient of FAMCO is the date the change is reported on the appropriate certification form to the state office or the end of the month during the month in which notification is made, whichever is earlier.

(4) The medical consultant shall review all cases involving out-of-state medical care to determine whether the services are within the scope of the medical assistance program.

(5) Dental care out-of-state is limited to treatment of acute and emergent conditions only. However, a dentist in another state licensed to practice in Washington, who has signed a participation agreement with the Washington Dental Service, may render services to persons residing in Washington to the same extent as if practicing in Washington.

(6) For limitations on eligibility for nursing home care out-of-state, see WAC 388-82-030(2). [Order 799, § 388-86-115, filed 5/25/73; Order 781, § 388-86-115, filed 3/16/73; Order 303, § 388-86-115, filed 9/6/68; Order 264 (part), § 388-86-115, filed 11/24/67.]

**WAC 388-86-120 State financed medical care services.** (1) A recipient of continuing general assistance who cannot be related to a federal aid category is eligible to receive the same scope of care as a recipient of medical assistance, except that no care will be provided outside the state of Washington other than in bordering states as specified in WAC 388-82-030(4).

(2) A recipient of noncontinuing general assistance who cannot be related to Title XVI and recipients of medical only shall be authorized for treatment of acute and emergent conditions only. A deductible of \$100 per family over a twelve month period from date of a denied application for medical care shall be required before a positive determination of eligibility for medical only may be made. (See WAC 388-83-045(7)(d)).

(a) Citizenship is not a requirement of eligibility.

(b) All treatment and drugs must be approved by the medical consultant (see WAC 388-87-025(1)).

(c) Recipients undergoing detoxification for an acute alcoholic condition are not required to incur the \$100 deductible as an eligibility factor for the covered period of detoxification.

(d) Care for mental or psychiatric conditions is limited to hospitalization for an acute and emergent condition. Voluntary admission and involuntary commitment by the court are covered by the program for eligible recipients (see WAC 388-86-050(3)(a) and (b) for other limitations on stay).

(e) Hearing aids and eyeglasses are not provided. Dental service is limited to relief of pain (see WAC 388-86-020).

(f) Care outside the state of Washington is not provided except in bordering states as specified in WAC 388-82-030(4).

(g) An "acute condition" is defined as having a short and relatively severe course, not chronic; and "emergent condition" is defined as occurring unexpectedly and demanding immediate action. In programs in which care is limited to the treatment of acute and emergent conditions it is understood that:

(i) The condition must be justified as acute and emergent, except that

(A) included will be those conditions of less urgency where medical experience indicates a failure to treat will usually result in the rapid development of an emergent situation;

(B) family planning and obstetrical care will be provided;

(C) when other care, including necessary drugs, is requested by the attending physician and approved by the local medical consultant as medically necessary, approval may be granted for service that might otherwise be excluded. See WAC 388-86-032.

(D) detoxification for an acute alcoholic condition will be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

(ii) Once care is initiated, it is continued to a logical completion; that is, the provided care is complete in amount, duration, and scope within the limitations of the medical care program.

(iii) In addition, an acute and emergent condition will be assumed to exist when an applicant for medical care indicates he has an undefined medical condition. Provided financial eligibility has been established, at least one office call will be allowed for diagnosis. Treatment will be contingent upon the criteria for acute and emergent being met.

(h) If the department is notified within seven days of the date medical care began or within seven days after an individual who is admitted in a coma to a hospital or other treatment facility becomes rational, certification shall cover this period if all eligibility factors have been met. The three month retroactive certification period referred to in WAC 388-84-005(2) does not apply to the fully state funded medical program. If notification is received in the local office subsequent to the seventh day of initiation of service, certification shall begin on the

date notification is received, with allowance for mail delivery. Seven days shall include the date of initiation of services but shall not include Saturday, Sunday or legal holidays. [Order 1233, § 388-86-120, filed 8/31/77; Order 1172, § 388-86-120, filed 11/24/76; Order 1014, § 388-86-120, filed 3/14/75; Order 994, § 388-86-120, filed 12/31/74; Order 967, § 388-86-120, filed 8/29/74; Order 938, § 388-86-120, filed 5/23/74; Order 924, § 388-86-120, filed 4/15/74; Order 911, § 388-86-120, filed 3/1/74; Order 879, § 388-86-120, filed 11/29/73; Order 680, § 388-86-120, filed 5/10/72; Order 581, § 388-86-120, filed 7/20/71; Order 549, § 388-86-120, filed 3/31/71, effective 5/1/71; Order 501, § 388-86-120, filed 12/9/70; Order 453, § 388-86-120, filed 5/20/70, effective 6/20/70; Order 335, § 388-86-120, filed 2/3/69; Order 303, § 388-86-120, filed 9/6/68; Order 264 (part), § 388-86-120, filed 11/24/67.]

**Chapter 388-87 WAC  
MEDICAL CARE—PAYMENT**

<b>WAC</b>	
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**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

388-87-055	Payment—Eyeglasses and examinations. [Order 386, § 388-87-055, filed 8/27/69; Order 264 (part), § 388-87-055, filed 11/24/67.] Repealed by Order 994, filed 12/31/74.
388-87-085	Payment—Pharmacy services. [Order 264 (part), § 388-87-085, filed 11/24/67.] Repealed by Order 316, filed 10/31/68.

**WAC 388-87-005 Payment—Eligible providers defined—Grounds for terminating participation.** (1) All providers of services under the department's medical care program shall agree to adhere to the department's

rules and regulations and established fee or price schedules.

(2) Eligible providers are

(a) Persons currently licensed by the state of Washington to practice medicine, chiropractic, osteopathy, dentistry, optometry, or podiatry,

(b) Persons currently licensed by the state of Washington as professional or practical nurses, or as physical therapists,

(c) A hospital currently licensed by the department,

(d) A nursing home currently licensed and classified by the department as a skilled nursing or intermediate care facility,

(e) A licensed pharmacy,

(f) A home health services agency certified by the department,

(g) A company or individual (not excluded in subsection (3)) supplying items such as ambulance service, oxygen, eyeglasses, other appliances, or approved services,

(h) A provider of screening services that has signed an agreement with the department to provide such services to eligible individuals in the EPSDT program.

(i) A certified center for the detoxification of acute alcoholic conditions.

(j) An outpatient clinical community mental health center, drug treatment center or Indian health service clinic.

(k) An out-of-state provider of services (a) through (g) with comparable qualifications in state of residence or location of practice.

(3) Under the mandatory and discretionary provision of RCW 74.09.530, and considering the limitation of available funds, the services of the following practitioners will not be furnished to applicants or recipients:

Sanipractors

Naturopaths

Homopathists

Herbalists

Masseurs or manipulators

Christian Science practitioners or theological healers

Any other licensed or unlicensed practitioners not otherwise specifically provided for in these rules.

(4) Any violation of the department's rules and regulations or administrative policies by a provider eligible to receive payment for services may be considered grounds for terminating the provider's participation in the medical care program. [Order 1233, § 388-87-005, filed 8/31/77; Order 1112, § 388-87-005, filed 4/15/76; Order 994, § 388-87-005, filed 12/31/74; Order 930, § 388-87-005, filed 4/25/74; Order 739, § 388-87-005, filed 11/22/72; Order 386, § 388-87-005, filed 8/27/69; Order 264 (part), § 388-87-005, filed 11/24/67.]

**WAC 388-87-010 Conditions of payment—General.** (1) The department shall be responsible for payment of service rendered to a recipient only when the services have been properly authorized and the recipient certified as eligible. Payment for well baby care is not

authorized except as provided for under the EPSDT program (See WAC 388-86-027(3)).

(2) The fees and rates established by agreement between the department and providers of service shall constitute the full charge for approved medical care and services provided to recipients by the providers.

(3) When a provider of service furnishes services to a known eligible recipient and does not bill the department for services for which the department is responsible for payment, the recipient is under no obligation to pay the provider.

(4) The department will not be responsible for payment for medical care and goods and/or services provided to a recipient enrolled in a department-contracted, prepaid medical plan who fails to use the provider under contract unless emergency conditions exist or the department has approved payment to another provider for provision of a service not covered by the prepaid plan.

(5) Payment for care on the federally aided medical programs will be retroactive for three months prior to the month of application provided the applicant would have been eligible when the care was received. The applicant to a federally aided program need not be eligible for medical assistance at the time of actual application. (See WAC 388-84-005(2)(b)). Payment for care on the fully state funded medical program may be retroactive for seven days prior to the date of application according to WAC 388-86-120(2)(c). Participation in the cost of medical care must be applied as outlined in WAC 388-83-045(6), and the service must be within the scope of care provided by the program. Medical services that require approval under the appropriate medical program must be approved by the ESSO medical consultant for the retroactive period. (See WAC 388-86-095(6)(a)).

(6) A provider of services to a person determined ineligible subsequent to the time service was rendered may be paid under the following conditions only:

(a) The person must have been certified as both financially and medically eligible at the time the service was rendered,

(b) Payment has not been made,

(c) The request for payment is approved as a case exception (see WAC 388-81-030). [Order 1158, § 388-87-010, filed 10/6/76; Order 1015, § 388-87-010, filed 3/27/75; Order 938, § 388-87-010, filed 5/23/74; Order 911, § 388-87-010, filed 3/1/74; Order 879, § 388-87-010, filed 11/29/73; Order 844, § 388-87-010, filed 8/9/73; Order 794, § 388-87-010, filed 4/26/73; Order 782, § 388-87-010, filed 3/16/73; Order 778, § 388-87-010, filed 3/1/73; Order 766, § 388-87-010, filed 1/10/73; Order 739, § 388-87-010, filed 11/22/72; Order 697, § 388-87-010, filed 6/29/72; Order 636, § 388-87-010, filed 1/13/72; Order 582, § 388-87-010, filed 7/20/71; Order 485, § 388-87-010, filed 10/13/70; Order 406, § 388-87-010, filed 11/24/69; Order 336, § 388-87-010, filed 2/3/69; Order 304, § 388-87-010, filed 9/6/68; Order 264 (part), § 388-87-010, filed 11/24/67.]

**WAC 388-87-011 Conditions of payment—Medicare deductible and coinsurance—When paid by department.** The department shall be responsible for the

deductible and coinsurance amounts for recipients participating in the benefits of Parts A and B of Medicare (Title XVIII of the Social Security Act) when the following conditions are met:

(1) Total combined reimbursement to the provider from Medicare and the department does not exceed the department's fee schedule, see WAC 388-87-010(2).

(2) Services provided are within the scope of the medical program,

(3) Recipients of federal aid medical care only (FAMCO) participate in the cost of care from available excess resources, see WAC 388-83-045(7), and

(4) The provider accepts assignment for Medicare payment. [Order 1112, § 388-87-011, filed 4/15/76; Order 1015, § 388-87-011, filed 3/27/75.]

**WAC 388-87-012 Conditions of payment—Consultant's and specialist's services and fees.** (1) When services of a consultant or specialist are required, whether the patient has been referred by a physician or is being treated by the specialist as the attending physician, the approval of the medical consultant is not necessary. This rule applies to consultation or treatment in the home, office, or medical institution. See WAC 388-87-027(2)(c).

(2) A copy of the consultation report must accompany the claim for consultant fees. If the report is not submitted with the billing, the fee for an initial office or hospital call will be paid dependent upon where consultation was given.

(3) When a specialist treats a patient for minor conditions or for chronic conditions of long duration, the standard fee for initial and subsequent office calls is allowed.

(4) Consultant's fees shall not be paid when the consulting physician specialist or other provider subsequently performs surgery or renders treatment for which flat fees are applicable, see WAC 388-86-095(4).

(5) If more than one specialist is called in to examine a patient during a spell of illness, billings are subject to review and approval by the chief of the office of medical assistance.

(6) Payment will be made for a psychological evaluation only when a physician has obtained the necessary approval to refer an eligible patient, whom he is treating, for such evaluation. Treatment by a psychologist is not provided. (See WAC 388-87-027(3)). [Order 1244, § 388-87-012, filed 10/10/77; Order 1098, § 388-87-012, filed 2/13/76; Order 1061, § 388-87-012, filed 10/8/75; Order 1015, § 388-87-012, filed 3/27/75.]

**WAC 388-87-013 Conditions of payment—Hospital care.** (1) A hospital must request approval of admission from the local medical consultant before payment is made.

(2) The department will not be responsible for payment for additional days of hospitalization in the case of a hospitalized recipient when the PAS limitations have been exceeded and the provider has not requested an extension or an extension request has been denied unless

prior contractual arrangements are made by the department for a specified length of stay. Payment for the additional time spent in the hospital would then depend upon any private agreement or contract between the provider and the patient.

(3) A beneficiary of Title XVIII Medicare who is not in a state institution shall use his nonrenewable lifetime hospitalization reserve of sixty days before payment for hospitalization will be made from Title XIX funds. [Order 1015, § 388-87-013, filed 3/27/75.]

**WAC 388-87-015 Billing limitations—Sixty-day period.** (1) Providers shall submit their charges at least monthly and shall present their final charges not more than sixty days after termination of services. See RCW 74.09.160. An exception to this shall be made as a result of a fair hearing decision or court order involving a fair hearing decision which is favorable to the recipient. In such case, providers must present final charges to the department within sixty days of the day of the decision or the date the order was entered (see RCW 74.08.080).

(2) When it is obvious that clearance of resources for an applicant will require more time than the sixty-day billing period permits, an immediate request for permission for late billing shall be made to the department's state office. Permission for late billing cannot be granted if the request is received after expiration of the sixty-day billing period.

(3) The sixty-day billing limitation does not apply to those individuals eligible for federal aid medical care whose medical care and services are being paid for during the three-month retroactive period prior to the month of application. The sixty day limitation begins for such eligible individuals as of the date of certification. (See WAC 388-87-010(5)).

(4) The sixty day billing limitation does not apply to those individuals receiving supplemental security income benefits when notification of related eligibility for medical care and services is delayed in the federal and state data processing system. The sixty day limitation begins for such eligible individuals on the last day of the month of certification. [Order 1151, § 388-87-015, filed 9/8/76; Order 1061, § 388-87-015, filed 10/8/75; Order 970, § 388-87-015, filed 9/13/74; Order 879, § 388-87-015, filed 11/29/73; Order 739, § 388-87-015, filed 11/22/72; Order 264 (part), § 388-87-015, filed 11/24/67.]

**WAC 388-87-020 Subrogation.** The department shall not be responsible to pay for medical care for an applicant or recipient whose personal injuries are occasioned by the negligence or wrongdoing of another; provided, however, that the director of the department may in his discretion furnish the medical care required as a result of such injury(ies) and the department shall thereby be subrogated to the applicant's or recipient's right of recovery therefore to the extent of the cost of medical care paid for by the department. [Order 264 (part), § 388-87-020, filed 11/24/67.]

**WAC 388-87-025 Services requiring approval of medical consultant.** (1) All services rendered recipients

of medical only or recipients of noncontinuing general assistance not relatable to federal aid or Title XVI program require approval of the local medical consultant. When a medical emergency is alleged but not apparent, the otherwise eligible applicant for noncontinuing general assistance or medical only may be referred to a participating physician for diagnosis and medical treatment if indicated. Such applicant may not be authorized this one office call unless \$100 in medical costs have been accrued within seven days prior to application. Subsequent to such denial a noncontinuing general assistance or medical only applicant has twelve months from the date of application to incur \$100 in medical costs. For this one office call only, the signature on the authorization form may be by an ESSO designee whose signature is on file in the professional audit section.

(2) Services to recipients of medical assistance and continuing general assistance requiring approval are

(a) All surgical procedures and X-ray therapy require approval by the local medical consultant – see WAC 388-86-095(6) and 388-86-110. The requesting physician shall submit form 525-100 to the ESSO. Only the surgeon need obtain written approval for surgery. The services of the surgical assistant and the anesthesiologist or anesthetist do not require approval. Their billings for payment, however, must show the patient's diagnosis and a cross reference to the surgeon.

(i) Prior approval for all nonemergent surgical procedures shall be obtained from the chief of the office of medical assistance from his professional designee, or from the full-time medical consultant in the ESSO or regional office where such is employed.

(b) Requests for medical appliances and prosthetic devices must have prior approval with the following exceptions:

(i) External braces involving neck, trunk and/or extremities.

(ii) Other nonreusable items costing less than \$150 if provision of the item will expedite a recipient's release from a hospital.

(c) All requests for reusable medical equipment and requests for surgical appliances provided, other than as described in subdivision (b), must be submitted on form 6-29 for the medical consultant's approval. If approval is received and the material to be supplied is to be billed by another provider of service it is necessary for the physician to transmit the approved form 6-29 to the provider for billing purposes – see WAC 388-86-100.

(d) Requests for allergy testing shall be submitted on appropriate state form for prior approval by the local medical consultant. The extent of service to be provided shall be indicated. In the event an independent laboratory bills for the allergy testings, the requesting physician shall send the approved state form to the laboratory as the billing authority.

(e) Drugs not listed in the department's formulary or any single prescription exceeding \$15 in cost – see WAC 388-91-020.

(f) Admission to a hospital – see WAC 388-87-070 and 388-86-050(2).

(g) Prior approval of special duty nursing care – see WAC 388-86-070.

(h) Initial provision of oxygen service for a recipient under sixty-five years of age in his own home. Repeat deliveries of oxygen for the same illness do not require medical consultant approval – see WAC 388-86-080(1) and 388-87-080.

(i) Prior approval of physical therapy on an outpatient basis or in a nursing home when prescribed by the attending physician – see WAC 388-86-090(1).

(j) For certain border situations and out-of-state medical care – see WAC 388-82-030(4) and (5), and WAC 388-86-115.

(k) All major appliances – see WAC 388-86-100.

(l) Eyeglasses and examinations (may also be approved by ESSO designee) – see WAC 388-86-030.

(m) For consultant or specialist referral when such referrals exceed two such consultants or specialists – see WAC 388-86-095(4).

(n) Respiratory therapy in excess of five treatments requires approval.

(o) Speech therapy requires an initial evaluation; both the evaluation and subsequent therapy require prior approval – see WAC 388-86-098. [Order 1244, § 388-87-025, filed 10/10/77; Order 1202, § 388-87-025, filed 4/1/77; Order 1196, § 388-87-025, filed 3/3/77; Order 1151, § 388-87-025, filed 9/8/76; Order 1098, § 388-87-025, filed 2/13/76; Order 1077, § 388-87-025, filed 12/24/75; Order 1019, § 388-87-025, filed 4/30/75; Order 1015, § 388-87-025, filed 3/27/75; Order 964, § 388-87-025, filed 8/19/74; Order 938, § 388-87-025, filed 5/23/74; Order 911, § 388-87-025, filed 3/1/74; Order 837, § 388-87-025, filed 7/26/73; Order 714, § 388-87-025, filed 9/14/72; Order 681, § 388-87-025, filed 5/10/72; Order 582, § 388-87-025, filed 7/20/71; Order 500, § 388-87-025, filed 12/2/70; Order 485, § 388-87-025, filed 10/13/70; Order 435, § 388-87-025, filed 3/31/70; Order 419, § 388-87-025, filed 12/31/69; Order 386, § 388-87-025, filed 8/27/69; Order 336, § 388-87-025, filed 2/3/69; Order 304, § 388-87-025, filed 9/6/68; Order 264 (part), § 388-87-025, filed 11/24/67.]

**WAC 388-87-027 Services requiring prior approval by state office.** (1) The following services requiring approval of the local medical consultant shall also receive prior approval of the chief of the office of medical assistance:

(a) Nonemergent surgical procedures – see WAC 388-86-095(6);

(b) Prosthetic devices and major appliances – see WAC 388-86-100.

(i) Purchase of reusable medical appliances and aids to mobility costing more than \$50,

(ii) Purchase of nonreusable surgical appliances or prosthetic devices costing more than \$100 except those described in WAC 388-87-025(2)(b),

(iii) Rental of all durable medical equipment regardless of cost,

(iv) All repairs to state owned or privately owned equipment.

(2) With the exception of prosthetic devices and major appliances, subsection (1) does not apply to ESSOs

or regions which have full-time medical consultants who are authorized to give approval.

(3) Prior approval of the chief of the office of medical assistance is required for psychological evaluation provided in connection with medical diagnosis and treatment (see WAC 388-87-012 (6)). [Order 1233, § 388-87-027, filed 8/31/77; Order 1158, § 388-87-027, filed 10/6/76; Order 1098, § 388-87-027, filed 2/13/76; Order 1019, § 388-87-027, filed 4/30/75; Order 930, § 388-87-027, filed 4/25/74; Order 714, § 388-87-027, filed 9/14/72; Order 681, § 388-87-027, filed 5/10/72; Order 500, § 388-87-027, filed 12/2/70; Order 485, § 388-87-027, filed 10/13/70; Order 419, § 388-87-027, filed 12/31/69.]

**WAC 388-87-030 Responsibility of physician—Patient admitted to hospital.** (1) Admission to a hospital shall be requested by the attending physician. The signature of the attending physician on the department's hospital invoice is not required; however, the hospital must enter the diagnosis, justification for admission and the physician's name in the diagnosis and justification section of the form.

(2) The department's hospital invoice shall be forwarded to the ESSO for review and appropriate action by the medical consultant. [Order 1233, § 388-87-030, filed 8/31/77; Order 911, § 388-87-030, filed 3/1/74; Order 879, § 388-87-030, filed 11/29/73; Order 837, § 388-87-030, filed 7/26/73; Order 386, § 388-87-030, filed 8/27/69; Order 336, § 388-87-030, filed 2/3/69; Order 304, § 388-87-030, filed 9/6/68; Order 264 (part), § 388-87-030, filed 11/24/67.]

**WAC 388-87-035 Payment—Ambulance and other transportation for medical reasons.** (1) Payment for ambulance service and other means of transportation shall be made for eligible individuals according to WAC 388-86-085.

(2) Payment shall include the cost of transportation for the individual by ambulance, taxi, common carrier or other appropriate means and the cost of oxygen and its administration when required and justified. When medically or otherwise necessary, payment may be made for an additional attendant to accompany a patient to a medical resource except that no salary shall be allowed for an additional attendant who is a member of the patient's family.

(3) Payment for transportation for medical reason shall be made on the basis of rates established by the department.

(4) No payment is made to providers of medical care, other than subsection (2) above, for mileage related to house calls and consultation visits, see WAC 388-87-095(2)(a). [Order 1244, § 388-87-035, filed 10/10/77; Order 755, § 388-87-035, filed 12/14/72; Order 706, § 388-87-035, filed 8/11/72; Order 336, § 388-87-035, filed 2/3/69; Order 304, § 388-87-035, filed 9/6/68; Order 264 (part), § 388-87-035, filed 11/24/67.]

**WAC 388-87-040 Payment—Anesthetization services.** Payment for the services of an anesthesiologist, or nurse anesthetist who is not a member of the hospital

staff, or a physician administering anesthesia is authorized incident to surgery, and without prior approval of the medical consultant, provided the billing form submitted to Professional Audit bears a cross reference to the surgeon and shows the patient's diagnosis. [Order 1203, § 388-87-040, filed 4/1/77; Order 264 (part), § 388-87-040, filed 11/24/67.]

**WAC 388-87-045 Payment—Blood.** (1) Payment shall be made for whole blood or plasma only when it is not available to the patient from other sources.

(a) For persons eligible for Medicare benefits, the above applies only to the first three pints of blood or plasma in any spell of illness.

(b) Payment will not be made for blood or plasma when the source of such blood is by donation.

(2) Payment will be made for the service charges necessary for handling and processing the blood or plasma unless provided to an individual who is hospitalized. In the latter case, payment will be included in the total payment to the hospital.

(3) Administration of blood or plasma on an outpatient basis in a hospital may be added to the total payment for outpatient service. Additional payments for blood bank service charges will be made when applicable. [Order 406, § 388-87-045, filed 11/24/69; Order 304, § 388-87-045, filed 9/6/68; Order 264 (part), § 388-87-045, filed 11/24/67.]

**WAC 388-87-047 Payment—Chiropractic services.** (1) Payment shall be made by the department for services rendered by a licensed chiropractor as described in WAC 388-86-023 subject to the following limitations:

(a) Payment is limited to three treatments per month, except that eight treatments within a 30 day period may be allowed for acute traumatic conditions.

(b) Payment is restricted to a maximum of twenty treatments per calendar year subsequent to an initial visit payable only the first time a new patient is seen.

(c) Payment will not be made for modalities such as light, heat, hydro-therapy, and physiotherapy.

(d) Payment shall not be made for any food supplement, medication or drug.

(e) Payment for chiropractic services received out-of-state is limited to three treatments for acute and emergent conditions for recipients related to federal programs.

(2) Billing for chiropractic services shall be submitted to the department on state form 525-101. All rules pertaining to billing are applicable to chiropractors. [Order 1203, § 388-87-047, filed 4/1/77; Order 1166, § 388-87-047, filed 10/27/76; Order 1112, § 388-87-047, filed 4/15/76; Order 386, § 388-87-047, filed 8/27/69.]

**WAC 388-87-050 Payment—Dental services.** (1) Payment for dental services is based on the contract between the department and the Washington Dental Service.

(2) Fees listed in this contract are the maximum permitted. If the dentist's fee is less than the maximum fee,

the program will pay the customary fee of the participating dentist.

(3) If a service is performed for which no fee is listed, the dental consultant of the department may fix the fee in accordance with recommendations of the dental advisory committee.

(4) The maximum dollar value of service given during a month is established by the contract. Exceptions for exceeding the limitation may be granted by the dental consultant.

(5) Necessary X-rays for diagnostic purposes may be paid for as a part of basic dental services.

(6) The participating dentist shall bill the Washington Dental Service using the Washington Dental Service examination and treatment form. [Order 1203, § 388-87-050, filed 4/1/77; Order 454, § 388-87-050, filed 5/20/70; Order 419, § 388-87-050, filed 12/31/69; Order 386, § 388-87-050, filed 8/27/69; Order 264 (part), § 388-87-050, filed 11/24/67.]

**WAC 388-87-060 Payment—Extended care patient—Coinsurance.** The recipient who is entitled to a maximum of 100 days of medicare benefits in skilled nursing facility for the same spell of illness shall pay from his available resources and income the coinsurance, beginning the 21st day of his extended care. When the recipient has insufficient resources and income, according to department standards, the department will pay the coinsurance. [Order 1112, § 388-87-060, filed 4/15/76; Order 336, § 388-87-060, filed 2/3/69; Order 264 (part), § 388-87-060, filed 11/24/67.]

**WAC 388-87-065 Payment—Home health agency.** Fees for home health visits shall be paid at rates established by the department. The department will pay for the services of a home health agency certified under Title XVIII for an eligible recipient under age sixty-five and for those recipients sixty-five years of age and over who have exhausted Part A Medicare and do not have Part B. These services shall be requested by appropriate state form. Approval is required for care which extends beyond the second calendar month or exceeds \$350. [Order 1112, § 388-87-065, filed 4/15/76; Order 593, § 388-87-065, filed 8/25/71; Order 264 (part), § 388-87-065, filed 11/24/67.]

**WAC 388-87-070 Payment—Hospital care.** (1) The department will pay hospital costs of eligible persons who are patients in general hospitals when such hospitals meet the criteria as defined in RCW 70.41.020. These persons must have been approved as financially and medically eligible for hospitalization. They are:

(a) Recipients of federal aid grants, including essential persons,

(b) Children in foster care for whom the department is making payment,

(c) Recipients of continuing general assistance,

(d) Recipients of federal aid medical care only,

(e) Recipients of noncontinuing general assistance or of medical only who cannot be categorically related and who have satisfied the \$100 deductible as specified by WAC 388-83-045(7)(d).

(2) Payment shall be based on

(a) the satisfaction of the criteria for the minimum deductible of \$100 for recipients of noncontinuing general assistance and of medical only, and

(b) On participation in the cost of medical care for those categories of recipients who are required to participate with excess income. See also WAC 388-86-050(2). [Order 1112, § 388-87-070, filed 4/15/76; Order 681, § 388-87-070, filed 5/10/72; Order 615, § 388-87-070, filed 10/7/71; Order 582, § 388-87-070, filed 7/20/71; Order 550, § 388-87-070, filed 3/31/71, effective 5/1/71; Order 386, § 388-87-070, filed 8/27/69; Order 336, § 388-87-070, filed 2/3/69; Order 304, § 388-87-070, filed 9/6/68; Order 264 (part), § 388-87-070, filed 11/24/67.]

**WAC 388-87-075 Payment—Laboratory services.** (1) A physician using his own laboratory to provide necessary laboratory services shall bill the department according to the its schedule of maximum allowances, using form DSHS 6-30.

(2) A physician using the services of an independent laboratory shall request services for a recipient in the same manner he requests services for his private patient.

(3) An independent laboratory may bill the department directly on form DSHS 6-30 and is paid on the basis of the department's schedule of maximum allowances, or may bill the physician. The physician is reimbursed by the department according to its schedule of maximum allowances for physicians' services. [Order 995, § 388-87-075, filed 12/31/74; Order 485, § 388-87-075, filed 10/13/70; Order 406, § 388-87-075, filed 11/24/69; Order 264 (part), § 388-87-075, filed 11/24/67.]

**WAC 388-87-077 Payment—Mental health center services.** (1) Payment for approved mental health center services to eligible recipients as defined in WAC 388-86-067 shall be on the basis of a contract between the department and participating mental health center. Medical consultant approval for these services is not required.

(2) No payment shall be allowed for a recipient of non-continuing general assistance who cannot be categorically related to a federal aid program or for a recipient of medical only. See also WAC 388-86-120. [Order 1067, § 388-87-077, filed 11/17/75; Order 924, § 388-87-077, filed 4/15/74; Order 778, § 388-87-077, filed 3/1/73; Order 582, § 388-87-077, filed 7/20/71; Order 502, § 388-87-077, filed 12/9/70.]

**WAC 388-87-080 Payment—Oxygen.** The initial request for oxygen on state form DSHS 6-29 originating with the attending physician requires approval from the medical consultant. On repeat deliveries of oxygen, as necessary, the authorized representative in the area office may sign the succeeding state form DSHS 6-29. Approval by the medical consultant is not required for these repeat deliveries. [Order 995, § 388-87-080, filed 12/31/74; Order 386, § 388-87-080, filed 8/27/69; Order 264 (part), § 388-87-080, filed 11/24/67.]



**WAC 388-87-090 Payment—Physical therapy and related services.** (1) The department will pay for the services of a registered physical therapist or a qualified speech pathologist or audiologist when all conditions outlined in WAC 388-86-090 have been met.

(2) The department will not pay for physical therapy or speech therapy as a separate billing when provided as part of inpatient hospital services.

(3) The department will not pay a nursing home for physical therapy or speech therapy as part of its bill. [Order 782, § 388-87-090, filed 3/16/73; Order 264 (part), § 388-87-090, filed 11/24/67.]

**WAC 388-87-095 Payment—Physician service.** (1) General provisions.

(a) The physician bills for his services on a fee-for-service basis using the department's schedule of maximum allowances for physicians' services. Where no fee can be found in the schedule applicable to a complicated or unusual procedure, the physician may submit his billing at a fee he considers reasonable. The final determination of the reasonableness of such fees shall be made by the chief of the office of personal health services.

(b) Form 6-30 shall be used by the physician in billing for persons under age sixty-five, and for those persons sixty-five years of age and older who do not have Part B benefits under medicare.

(c) The local office may request a physician to complete a physical examination as described in WAC 388-86-095(2). In such cases, the local office requests the physician to arrange an appointment for the individual and provides the physician with a preapproved form A-19 for billing. A predetermined fee has been established for the cost of such examination, plus necessary laboratory and X-ray procedures. If the physician completes form 13-21 from available medical records without conducting an examination, an adjusted fee shall be paid.

(2) Exclusions and limitations

(a) No payment is made to the physician for mileage.

(b) No payment is made to the physician for prescription refills.

(c) No payment will be made for podiatric items or services:

(i) Which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member,

(ii) Which constitute personal comfort items,

(iii) Where such expenses are for cosmetic surgery or are incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body member, or

(iv) Where such expenses are for:

(A) The treatment of flat foot conditions and the prescription of supportive devices therefor,

(B) The treatment of subluxations (incomplete or partial dislocations) of the foot, or

(C) Routine foot care including the cutting or removal of corns, calluses, the trimming of nails, and other routine hygienic care.

(v) These limitations apply to services provided by a podiatrist in his office, in a patient's home, in a hospital or nursing home.

(d) No payment is generally made for medical supplies used in conjunction with an office visit; however, payment may be made for items such as sling and swathe, clavicle and shoulder splints, cervical collars and ace bandages, subject to the limitations of the physician's acquisition cost.

(e) When it comes to the attention of the office of personal health services that a physician bills the department for inpatient hospitalization visits and the period of hospitalization has been denied, no payment will be made. [Order 1019, § 388-87-095, filed 4/30/75; Order 778, § 388-87-095, filed 3/1/73; Order 485, § 388-87-095, filed 10/13/70; Order 464, § 388-87-095, filed 6/23/70; Order 454, § 388-87-095, filed 5/20/70; Order 406, § 388-87-095, filed 11/24/69; Order 386, § 388-87-095, filed 8/27/69; Order 304, § 388-87-095, filed 9/6/68; Order 264 (part), § 388-87-095, filed 11/24/67.]

**WAC 388-87-100 Payment—Special duty nursing.** Special duty nursing care in a hospital necessary as a lifesaving measure shall be provided with prior approval by the local medical consultant. [Order 1112, § 388-87-100, filed 4/15/76; Order 794, § 388-87-100, filed 4/26/73; Order 264 (part), § 388-87-100, filed 11/24/67.]

**WAC 388-87-105 Payment—Medical care outside state of Washington.** (1) Medical care furnished in border states mentioned in WAC 388-82-030(4) is not considered to be out-of-state care. Payment is made to the provider of service as for care provided within the state of Washington. Provider licensure requirements, however, would be those of the state in which care is rendered.

(2) Payment is authorized for out-of-state medical care furnished only to recipients of medical assistance (MA).

(3) The three month retroactive coverage applies to out-of-state care given to eligible applicants. (See WAC 388-84-005(2)(b))

(4) When out-of-state service is provided (excluding state office approved care in a skilled nursing home) in a state with a Title XIX medical care program, payment shall be authorized at the rate paid by the medical care program of the state in which the service is rendered. If provided in a state without a Title XIX program, payment shall be authorized at the rate charged, but not to exceed the rate paid for the service under Title XVIII medicare.

(5) Out-of-state providers shall be furnished with necessary billing forms and instructions, except dentists whose billings shall be submitted to the Washington Dental Service.

(6) If the deductible or coinsurance portions of medicare are claimed, it will be necessary for the provider to submit his billing to the intermediary or carrier in his own state on the appropriate medicare billing form. If the state of Washington is checked as being responsible

for medical billing on the form, the intermediary or carrier may bill on behalf of the provider or may return the billing to the provider for submitting to the state.

(7) Approved care in out-of-state skilled nursing home will be paid either at the rates for care charged in that state for recipients of public assistance, or in an amount not to exceed the rate for skilled nursing home care in the state of Washington, whichever is the lesser amount. Exceptions to the rule in this subsection may be granted only by the chief of the office of nursing home affairs. [Order 1203, § 388-87-105, filed 4/1/77; Order 1112, § 388-87-105, filed 4/15/76; Order 1061, § 388-87-105, filed 10/8/75; Order 879, § 388-87-105, filed 11/29/73; Order 667, § 388-87-105, filed 3/23/72; Order 567, § 388-87-105, filed 5/19/71; Order 336, § 388-87-105, filed 2/3/69; Order 304, § 388-87-105, filed 9/6/68; Order 264 (part), § 388-87-105, filed 11/24/67.]

### Chapter 388-88 WAC

#### MEDICAL CARE—NURSING HOME CARE

##### WAC

388-88-001	Nursing home care.
388-88-010	Name of nursing home.
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388-88-110	Nursing home placement of public assistance recipient referred from Alaska.
388-88-115	Discharge or leave of nursing home patient.

##### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-88-005	Nursing home care. [Order 342, § 388-88-005, filed 3/20/69; Order 264 (part), § 388-88-005, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
388-88-015	Classification of nursing home. [Order 342, § 388-88-015, filed 3/20/69; Order 264 (part), § 388-88-015, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
388-88-020	Application for classification. [Order 342, § 388-88-020, filed 3/20/69; Order 264 (part), § 388-88-020, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
388-88-025	Change in authorized manager. [Order 342, § 388-88-025, filed 3/20/69; Order 264 (part), § 388-88-025, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
388-88-030	Change in business organization of home. [Order 342, § 388-88-030, filed 3/20/69; Order 264 (part), § 388-88-030, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
388-88-035	Classification of nursing home—Change of ownership. [Order 342, § 388-88-035, filed 3/20/69; Order

264 (part), § 388-88-035, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.

388-88-040	Change in classification of nursing home—Application. [Order 342, § 388-88-040, filed 3/20/69; Order 264 (part), § 388-88-040, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
388-88-055	Grant for clothing and incidentals—Record keeping—Patient's money. [Order 930, § 388-88-055, filed 4/25/74; Order 342, § 388-88-055, filed 3/20/69; Order 264 (part), § 388-88-055, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
388-88-060	Skilled nursing facility services in hospitals. [Order 1168, § 388-88-060, filed 11/3/76; Order 964, § 388-88-060, filed 8/19/74; Order 930, § 388-88-060, filed 4/25/74; Order 342, § 388-88-060, filed 3/20/69; Order 264 (part), § 388-88-060, filed 11/24/67.] Repealed by Order 1257, filed 12/21/77.
388-88-070	Justification of rate payment. [Order 1168, § 388-88-070, filed 11/3/76; Order 342, § 388-88-070, filed 3/20/69; Order 264 (part), § 388-88-070, filed 11/24/67.] Repealed by Order 1262, filed 12/30/77.
388-88-085	Payment standards—Rates—Procedures. [Order 1168, § 388-88-085, filed 11/3/76; Order 879, § 388-88-085, filed 11/29/73; Order 342, § 388-88-085, filed 3/20/69; Order 264 (part), § 388-88-085, filed 11/24/67.] Repealed by Order 1262, filed 12/30/77.
388-88-090	Receipt of supplemental compensation for nursing home care. [Order 1168, § 388-88-090, filed 11/3/76; Order 631, § 388-88-090, filed 11/24/71; Order 342, § 388-88-090, filed 3/20/69; Order 264 (part), § 388-88-090, filed 11/24/67.] Repealed by Order 1262, filed 12/30/77.
388-88-120	Extended care facility—Payment for co-insurance. [Order 631, § 388-88-120, filed 11/24/71; Order 342, § 388-88-120, filed 3/20/69; Order 264 (part), § 388-88-120, filed 11/24/67.] Repealed by Order 1257, filed 12/21/77.

**WAC 388-88-001 Nursing home care.** (1) The department has the administrative and legal responsibility to purchase nursing home and nursing home based (out-patient services, WAC 248-14-295) care for eligible persons. The department has the responsibility to assure to the state that adequate care, service and protection are provided through licensing and certification procedures.

(2) Each Title 19 nursing home will be certified as a skilled nursing facility, intermediate care facility, or skilled nursing and intermediate care facility. A contract for the provision of care to medical recipient patients at an ICF facility will be for ICF care only. Except as provided in WAC 388-88-001(4), contracts for the provision of care at all other facilities will be dual (ICF/SNF). Medical assistance recipients who are classified as requiring either intermediate level or skilled nursing care must be provided care only in a facility so certified.

(3) When a hospital elects to provide skilled nursing facility and/or intermediate care facility services to medical assistance recipients, the department will consider the hospital as such a provider. The hospital will be surveyed and certified, and all rules and regulations relating to skilled nursing facilities and/or intermediate care facilities shall apply, including certificate of need and/or section 1122.

(4) In order to qualify for a SNF only contract, a facility must meet department criteria regarding location, patient-classification ratios, ICF availability, average length of stay, staffing, and provision of rehabilitative

services. The department will review all such requests and respond in writing within thirty days of receipt of a properly completed application. [Order 1257, § 388-88-001, filed 12/21/77.]

**WAC 388-88-010 Name of nursing home.** The department will recognize only the official name of a nursing home as shown on the nursing home license. [Order 342, § 388-88-010, filed 3/20/69; Order 264 (part), § 388-88-010, filed 11/24/67.]

**WAC 388-88-045 Closure of nursing home.** When a nursing home is due to cease operation, it has the responsibility of notifying the office of nursing home affairs, in writing, giving thirty days notice. Upon receipt of notice of closure of a home, the department shall cease referral of patients to the home and proceed in the orderly relocation of patients. [Order 1257, § 388-88-045, filed 12/21/77; Order 1168, § 388-88-045, filed 11/3/76; Order 342, § 388-88-045, filed 3/20/69; Order 264 (part), § 388-88-045, filed 11/24/67.]

**WAC 388-88-050 Adequate nursing home care.** (1) Care and services rendered must be justified as essential to patient health care needs, with the overall goal of restoration, maintenance at the highest possible level of independence, and/or terminal care. The nursing home is obligated to provide adequate nursing home care which includes, but is not limited to:

- (a) Medical supervision,
- (b) Nursing care and supervision,
- (c) Administration of medications and treatments,
- (d) Medically justified consultant services where defined in chapter 388-86 WAC.
- (e) Patient record system,
- (f) Meeting medically related social and emotional needs,
- (g) Nutritionally adequate and varied diet,
- (h) Safe and comfortable environment,
- (i) Safeguarding the patient's rights and personal possessions.

(2) The nursing home is obligated to provide items and supplies which are routinely and relatively uniformly used for all patients, and which are essential for the provision of adequate health care services. Such items include but are not limited to:

- (a) Patient gowns,
- (b) Pitchers, basins,
- (c) Bedpans, Urinals,
- (d) Soaps, lotions, shampoos, toothpaste and powder,
- (e) Alcohol sponges, applicators, tongue depressors, band-aids,
- (f) Approved nonlegend stock drugs and solutions,
- (g) Physician ordered dietary supplements,
- (h) Linen and nonpersonal laundry.

(3) Reuseable equipment to be available for periodic use includes:

- (a) Ice bags, hotwater bottles,
- (b) Bedrails, canes, crutches,
- (c) Walkers, wheelchairs, traction equipment,
- (d) Emergency tray and aspirator, and oxygen tank,
- (e) Other durable medical equipment.

(4) Surgical appliances, prosthetic devices, and aides to mobility required for the exclusive use of an individual patient are available to the recipient directly through WAC 388-86-100.

(5) Nonreuseable supplies not usually provided for all patients may be individually ordered through WAC 388-86-005(2). These items may include medically justified suction catheters, enterostomy supplies, urinary catheters and drainage equipment. Requests for such supplies must be authorized by a department representative. [Order 1257, § 388-88-050, filed 12/21/77; Order 1168, § 388-88-050, filed 11/3/76; Order 342, § 388-88-050, filed 3/20/69; Order 264 (part), § 388-88-050, filed 11/24/67.]

**WAC 388-88-065 Continuity of patient care.** When a patient is transferred from one nursing home to another, from a nursing home to a hospital or from a hospital to a nursing home, essential information concerning the patient, his condition and regimen of care must be transmitted in writing by the sending facility to the receiving facility at the time of the patient's transfer. [Order 342, § 388-88-065, filed 3/20/69; Order 264 (part), § 388-88-065, filed 11/24/67.]

**WAC 388-88-075 Nursing home contract—Noncompliance.** (1) When a home is in violation of the terms of the contract, the department may temporarily suspend the referral of patients to the home. Whenever referral is suspended under this section, the home will immediately be notified in writing of the suspension and of the basis for the department's action. Suspension may continue until the department determines the infraction has been satisfactorily corrected.

(2) Failure of a home to provide staffing commensurate with the terms of the contract shall necessitate the suspension of referral of recipients who require the level of nursing care not provided by the home. A home, unable to provide the level of care for which a recipient is classified, shall not accept or retain those recipients whose unique needs cannot be met. See WAC 388-88-100(2). Violations which create a health or safety hazard to individual patients shall constitute grounds for termination of the contract by the department.

(3) The occupancy of each patient room in any licensed nursing home is designated by the licensing authority and the occupancy of each room must be limited to the number of patients for which the room is licensed. The location of any recipient in such a manner as to exceed the licensed capacity of any patient room constitutes violation of the contract for skilled and/or intermediate nursing home care whether or not the total licensed capacity of the facility has been reached. The location of a recipient in any area of the home which has not been licensed is also such violation.

(4) When the department terminates a contract, the home will be notified in writing of the contract termination and the basis for the department's action. The department will assist in the movement of medical assistance patients needing continued nursing care. [Order 1257, § 388-88-075, filed 12/21/77; Order 1168, § 388-88-075, filed 11/3/76; Order 342, § 388-88-075,

filed 3/20/69; Order 264 (part), § 388-88-075, filed 11/24/67.]

**WAC 388-88-080 Classification of patients.** (1) Level of care determinations are made by the nursing care consultants in accordance with their best professional judgment.

(2) In making classification decisions, the department's personnel shall utilize the guidelines for skilled and intermediate care in WAC 388-88-081 and 388-88-083.

(3) The classification of the nursing home patient shall periodically be reviewed by the nursing care consultant for the purposes of:

(a) determining the need for continued stay.

(b) identifying the level of care required to meet the nursing care needs of the patient.

(4) Classification changes shall be made in accordance with the needs of the recipients and in accord with appeal and relocation procedures outlined in WAC 388-88-101. [Order 1257, § 388-88-080, filed 12/21/77; Order 1168, § 388-88-080, filed 11/3/76; Order 342, § 388-88-080, filed 3/20/69; Order 264 (part), § 388-88-080, filed 11/24/67.]

**WAC 388-88-081 Skilled nursing care patients.** Patients who require skilled nursing care are those whose condition, needs, and/or services are of such complexity and sophistication so as to require the continuous or frequent observation and intervention of a licensed physician and registered nurse. These patients require on-going assessments of physiological and/or psychological needs, and the development and implementation of a comprehensive total plan of care involving multidisciplinary input and coordination. Patient needs include on-going evaluations, care plan revisions and the teaching necessary to provide for those whose condition is unstable and/or complex. [Order 1257, § 388-88-081, filed 12/21/77.]

**WAC 388-88-082 Minimum licensed personnel requirements for skilled nursing facilities.** The facility shall meet all federal staffing requirements and:

(1) A registered nurse shall be employed as director of nursing services (DNS) who shall direct all nursing care given in the home. The DNS shall be employed full time (minimum 8-hour day, 40-hour week) on day duty, and shall be relieved by a registered nurse.

(2) A registered nurse or licensed practical nurse shall be on afternoon and night duty; at least one of the two shifts shall be covered by a registered nurse. Sufficient licensed nursing staff shall be provided to meet necessary nursing care needs.

(3) The licensed administrator may not serve as such, in name or fact, for more than one facility unless prior written approval is granted by the department. [Order 1257, § 388-88-082, filed 12/21/77.]

**WAC 388-88-083 Intermediate care facility patients.** Residents who require intermediate nursing care are those whose physiological and/or psychological functioning is stable, but require on-going individually

planned programs under the direction of a licensed physician and licensed nurse and includes supervision, assistance, protection, and restoration. This program is directed toward maintenance of maximum independence and return to the community whenever possible. The treatment regimen is established and requires the residents active participation. [Order 1257, § 388-88-083, filed 12/21/77.]

**WAC 388-88-084 Minimum licensed personnel requirements for intermediate care facilities.** (1) A licensed nurse shall be employed on day duty as health services supervisor. The licensed nurse shall direct all nursing care and coordinate personal care services given in the ICF, and shall be employed full time (minimum 8-hour day, 40-hour week). Sufficient licensed nursing staff shall be provided to meet necessary nursing care needs.

(2) A licensed nurse shall be available for relief of the health services supervisor.

(3) If any resident requires administration of medications or other services requiring a licensed nurse within the time periods of the evening and night shifts, there must be licensed nursing personnel available to ensure safe practice consistent with the Nurse Practice Act of the state of Washington.

(4) If the health services supervisor is not a registered nurse, at least four hours a week of registered nurse consultation must be provided in accordance with 45 CFR 249.12(a)(9)(i).

(5) If the ICF is located within a SNF, the director of nursing services of the SNF may serve as health services supervisor of the ICF. [Order 1257, § 388-88-084, filed 12/21/77.]

**WAC 388-88-095 Placement of patient.** Nursing home care must be requested by the patient's attending physician or Christian Science practitioner and the patient's classification must be determined by the designated representative of the department before placement or payment can be approved by the department. [Order 1257, § 388-88-095, filed 12/21/77; Order 1168, § 388-88-095, filed 11/3/76; Order 631, § 388-88-095, filed 11/24/71; Order 342, § 388-88-095, filed 3/20/69; Order 264 (part), § 388-88-095, filed 11/24/67.]

**WAC 388-88-100 Transfer of recipient—Relocation.** (1) The department is responsible for ensuring that individual medical care recipient's needs are identified and met, as provided by state and federal regulations. It is therefore responsible for ensuring that each medical care recipient is placed in a facility which is certified as capable of meeting the needs of the recipient and ensuring that necessary transfers are accomplished with a minimum of trauma to the recipient.

(2) Each medical care recipient admitted to a facility is transferred or discharged only for medical reasons, or for his or her welfare or that of other patients, or for nonpayment for his or her stay. This determination shall be made by the department based on an assessment of the patient, consultation with the provider, and a review of relevant records. See WAC 388-88-075(2).

(3) If the services being provided to a medical recipient are not commensurate with the recipient's needs, the department is responsible for initiating and facilitating recipient relocation.

(a) A circumstance under which the department would enforce immediate movement of a medical recipient from a nursing home is in the event of revocation or suspension of the nursing home license.

(b) Recipients and their next of kin, guardian or responsible party will be notified by letter from the department that 30 days after the mailing date of the letter, the facility will no longer be allowed to operate as a nursing home, and that they, therefore, will be required to relocate: *Provided*, That nothing in this section shall require that pretransfer notice be given when the secretary or his/her designee determines that an immediate threat to health and/or safety exists or that moves may be accomplished sooner at the request of the patient or with the patient's consent.

(c) Decertification, termination or nonrenewal of contract actions require stop payment of Title XIX funds. Decisions do not affect the facility's right to operate as a nursing home, but rather, its eligibility to receive federal funds. When termination of federal funds is contemplated, recipients must be informed.

(d) For reclassification requiring relocation, review and assessment by the designated representative of the department (WAC 388-88-080) will occur:

Prior to implementation of a change in the level of care, which will result in a change in the services required and provided or a transfer, the medical care recipient and next of kin, guardian or responsible party shall be informed in writing 30 days prior to the effective date of the change pursuant to WAC 388-88-101.

(e) A facility may request that a recipient be relocated or discharged only for medical reasons, or for his or her welfare or that of other patients or for nonpayment of his or her stay. See WAC 388-88-075(2).

(i) The facility shall send a request in writing for relocation or discharge of a medical care recipient to the department. This request shall include the reason for the relocation or discharge.

(ii) The department shall approve or deny the request for relocation or discharge based on an on-site visit with the patient and a review of his/her records, within 30 days following receipt of the request.

(iii) The facility administrator shall be informed of the department approval or denial of the request.

(iv) If the facility's request is approved, the department shall notify, in writing, the medical care recipient or the recipient's next of kin or guardian, or responsible party, of the decision pursuant to WAC 388-88-101.

(v) The medical care recipient and the department will be allowed 30 days from the date that the recipient is notified by the department in order to facilitate relocation or discharge and minimize transfer trauma.

(f) The medical care recipient has an unlimited right to request relocation and to select the nursing home he/she desires for placement. If this selection is available and appropriate to the medical care recipient's needs, relocation shall be arranged.

(i) The medical care recipient or the recipient's next of kin, guardian or responsible party must request such a move in writing.

(ii) Arrangements for relocation will be the responsibility of the department placement personnel. [Order 1257, § 388-88-100, filed 12/21/77; Order 1197, § 388-88-100, filed 3/17/77; Order 631, § 388-88-100, filed 11/24/71; Order 342, § 388-88-100, filed 3/20/69; Order 264 (part), § 388-88-100, filed 11/24/67.]

**WAC 388-88-101 Medical care recipient rights—Relocation.**

(1) Except in those cases specified in WAC 388-88-101(3), the medical care recipient (or the next of kin, guardian, or responsible party of the recipient who has been adjudicated to be incompetent) must be informed in writing 30 days prior to the relocation or reclassification to ensure orderly transfer or discharge. Such notice must include:

(a) The reasons for the proposed change and/or transfer;

(b) A right to a conference with departmental representatives and any other individuals the recipient wishes to speak to within 30 days of receipt of such notice;

(c) The right to a fair hearing within 30 days of receipt of the notice to contest the department's decision;

(d) The method by which a fair hearing may be obtained;

(e) The right to be represented at the fair hearing by an authorized representative;

(f) The existence and locations of any legal services in the community that are available.

(2) A fair hearing request form shall be sent with the notice of relocation and/or reclassification.

(a) If the recipient requests a fair hearing within the 30-day time period, the department shall not change the level of care or transfer the patient pending the fair hearing decision and the exhaustion of appeal rights.

(b) If the secretary or his/her designee finds that a change in the level of care is not appropriate, no further action shall be taken to change the level of care or transfer the patient, unless there is a change in the situation or circumstances at which time the request may be resubmitted.

(c) If the secretary or his/her designee affirms the determination to change the recipient's level of care and/or transfer, and no judicial review is filed within 30 days of the receipt of notice of determination, the department shall proceed with the planned action.

(d) If the secretary or his/her designee affirms the determination to change the recipient's level of care and/or transfer and a request for judicial review has been filed, any proposed change and/or transfer shall be delayed pending the outcome of the appeal process.

(3) Advance notice is not required:

(a) If the medical care recipient or the recipient's next of kin, guardian or responsible party, requests a transfer in writing and waives the right to a period of notice.

(b) In the event of an immediate threat to the medical care recipient's life or health, or that of others.

(4) Advance notice and planning to mitigate transfer trauma does not include a right to fair hearing for medical care recipients when the department judges that the facility where they reside is no longer able to provide Title XIX services due to:

- (a) Termination of its contract
- (b) decertification of the facility
- (c) nonrenewal of its contract
- (d) revocation of its license
- (e) emergency license suspension. [Order 1257, § 388-88-101, filed 12/21/77; Order 1197, § 388-88-101, filed 3/17/77.]

**WAC 388-88-102 Mitigation of transfer trauma.** A suitable discharge and transfer plan must be prepared by the department for each medical care recipient who is to be transferred or discharged. Transfer shall be dependent on the best interests of the patient and the best available means of mitigating any traumatic effects of transfer. The plan shall include the location of available beds at the appropriate level of care which is consistent with the needs of the recipient. It shall include provision for mitigating transfer trauma:

- (1) Coordination of communication between the staffs of the old and new facilities;
- (2) Pre-transfer visit, when the recipient's condition permits, to the new facility, familiarizing the recipient with new surroundings, and other patients;
- (3) Coordination of active participation by the recipient's relatives in the transfer preparation program;
- (4) Coordination and counseling sessions with members of the old and the new facility to discuss expectations and apprehensions about the new facility and provide further counseling on request;
- (5) Post-transfer follow-up by the Department to monitor the immediate effects of the change including visits to recipients during the first month of stay in the new facility;
- (6) The department shall consider all pertinent aspects of an individual's history and current status which may impact on his/her susceptibility to transfer trauma. [Order 1257, § 388-88-102, filed 12/21/77; Order 1197, § 388-88-102, filed 3/17/77.]

**WAC 388-88-105 Patient transfer from state hospital or school for retarded to nursing home.** The transfer of a patient, eligible for assistance, from a state hospital or school for the retarded to a licensed nursing home shall be effected through close coordination between units of the department. [Order 631, § 388-88-105, filed 11/24/71; Order 342, § 388-88-105, filed 3/20/69; Order 264 (part), § 388-88-105, filed 11/24/67.]

**WAC 388-88-110 Nursing home placement of public assistance recipient referred from Alaska.** The department accepts responsibility for the nursing home placement of Alaskan recipients referred by the Alaska department of health and welfare. [Order 342, § 388-88-110, filed 3/20/69; Order 264 (part), § 388-88-110, filed 11/24/67.]

**WAC 388-88-115 Discharge or leave of nursing home patient.** (1) A certified nursing home or hospital having a nursing home contract with the department shall send to the ESSO immediate written notification of the date of discharge or death of a patient.

(2) The facility shall also notify the ESSO of social absences exceeding 24 hours. Social absences over 36 hours require ESSO approval of the patient care plan.

(3) Discharge and readmission is necessary for all recipients who are admitted as hospital inpatients.

(4) The department will not reimburse providers for the reservation of a bed for a single social absence exceeding seven days, unless written permission is received by the provider from the ESSO. The department will reimburse providers for absences not to exceed a total per calendar year of eighteen days. [Order 1237, § 388-88-115, filed 8/31/77; Order 1168, § 388-88-115, filed 11/3/76; Order 879, § 388-88-115, filed 11/29/73; Order 631, § 388-88-115, filed 11/24/71; Order 342, § 388-88-115, filed 3/20/69; Order 264 (part), § 388-88-115, filed 11/24/67.]

#### Chapter 388-90 WAC

#### SKILLED NURSING HOME CARE IN STATE SCHOOLS FOR RETARDED PERSONS

##### WAC

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|------------|---|
| 388-90-005 | Skilled nursing facility care in state school for retarded persons.   |
| 388-90-010 | Skilled nursing facility care in state school for retarded persons—Minimum requirements for licensure or approval of institution. |

**WAC 388-90-005 Skilled nursing facility care in state school for retarded persons.** (1) A resident of a state school for the retarded is eligible for medical assistance if he:

(a) Meets the basic eligibility conditions for the appropriate federal aid program as specified in chapter 388-92 WAC except that parental financial responsibility for a patient under eighteen years of age may be disregarded if it is determined to be in the best interest of the individual, and

(b) Needs health care equal to the care provided in a skilled nursing facility, and

(c) Is receiving such care in a school for the retarded, or any part thereof, which is formally approved as a skilled nursing facility. See WAC 388-82-025.

(2) The monthly cost standard for clothing and personal maintenance and necessary incidentals shall be \$25.00.

(3) Payment for care shall be according to rates and methods established by the department.

(4) Health care when required outside the institution shall be provided according to chapter 388-86 WAC. [Order 1097, § 388-90-005, filed 2/13/76; Order 918, § 388-90-005, filed 3/14/74; Order 826, § 388-90-005, filed 7/26/73; Order 668, § 388-90-005, filed 3/23/72; Order 556, § 388-90-005, filed 4/1/71; Order 486, § 388-90-005, filed 10/13/70.]

**WAC 388-90-010 Skilled nursing facility care in state school for retarded persons—Minimum requirements for licensure or approval of institution.** The institution, or any part thereof, shall meet all applicable requirements for licensure or formal approval as a skilled nursing facility. [Order 930, § 388-90-010, filed 4/25/74; Order 486, § 388-90-010, filed 10/13/70.]

### Chapter 388-91 WAC MEDICAL CARE—DRUGS

#### WAC

388-91-010	Drugs—Persons eligible.
388-91-013	Drugs—Physician's name required on prescriptions.
388-91-016	Drugs—Limitations to payment.
388-91-020	Nonformulary prescriptions drugs—Medical consultant approval.
388-91-030	Drugs—Prescription, form DSHS 6-02 (5889).
388-91-035	Drugs—Pharmacist's agreement.
388-91-040	Drugs—Pricing standards.
388-91-050	Out-of-state prescriptions.

**WAC 388-91-010 Drugs—Persons eligible.** In accordance with the department's rules and regulations and within the limitation of available funds, drugs are provided for

(1) The necessary and essential medical care of recipients of continuing assistance and of recipients of federal aid medical care only (FAMCO);

(2) The treatment of acute and emergent conditions of recipients of noncontinuing general assistance and of medical only who cannot be categorically related. These persons are identified by the notation "ACUTE/EMERGENT" on their medical identification coupons. All drugs provided to such recipients require the approval of the local office medical consultant.

(3) Certain necessary drugs such as cardiac control agents, insulin and oral antidiabetic agents, anticonvulsant agents, urinary anti-infective agents, broncho-dilator agents and antineoplastics may be provided to recipients of noncontinuing general assistance and of medical only who have satisfied the \$100 deductible. All such drugs provided require approval of the local office medical consultant. [Order 682, § 388-91-010, filed 5/10/72; Order 632, § 388-91-010, filed 11/24/71; Order 583, § 388-91-010, filed 7/20/71; Order 461, § 388-91-010, filed 6/17/70, effective 8/1/70; Order 387, § 388-91-010, filed 8/27/69; Order 316, § 388-91-010, filed 10/31/68.]

**WAC 388-91-013 Drugs—Physician's name required on prescriptions.** The prescription, form DSHS 6-02, must bear the prescribing physician's name and drug enforcement administration (DEA) number as a means of identification. [Order 1112, § 388-91-013, filed 4/15/76; Order 884, § 388-91-013, filed 12/17/73; Order 682, § 388-91-013, filed 5/10/72; Order 461, § 388-91-013, filed 6/17/70, effective 8/1/70.]

**WAC 388-91-016 Drugs—Limitations to payment.** (1) The department does not provide:

(a) Nonformulary drugs which can be purchased without a prescription such as: nose drops, cotton, alcohol, vitamins, simple laxatives, advertised antacids such as but not limited to Tums, Roloids, etc.;

(b) Any drug regularly supplied as an integral part of program activity by other public agencies such as the U.S. veterans' administration, U.S. department of health, education and welfare - division of Indian health, local health department, etc.;

(c) Drugs, biologicals, supplies, appliances, and equipment furnished by an extended care facility under Title XVIII of the Social Security Act;

(d) Drugs ordered for a hospitalized patient. These are to be furnished by the hospital;

(e) Drugs to individuals who have elected to be enrolled in a special group medical coverage contract which includes the provision of drugs as a part of the contract.

(2) The department furnishes tranquilizing, antidepressant and antiepileptic drugs and agents used for treating drug-induced Parkinsonism which are prescribed for former patients of Washington state institutions for the mentally ill and retarded. The attending physician shall use and mail the prescription, form DSHS 13-32 (9181), directly to the state hospital from which the patient has been discharged. The medication is then mailed by the facility pharmacy to the patient. Payment is not made to pharmacist providers in this situation.

(3) Prescribed nonformulary drugs and sustained action and time release formulas will be allowed for unusual conditions only when approved by the local medical consultant.

(4) The physician who provides a drug (oral or by the department) incidental to an office call may include a fee established on the basis of the acquisition cost of the drug in addition to his office call fee. In the event the cost of the drug given the patient exceeds this fee, the physician may include on his invoice for his professional services to the patient the actual cost of the drug indicating name of manufacturer and strength of dosage. Payment to the physician for the cost of drugs will be limited to:

- (a) Penicillin and other antibiotics
- (b) Estrogens and androgens
- (c) Cortisone and derivatives
- (d) Treatment of aplastic and pernicious anemia
- (e) Antineoplastic preparations
- (f) Preparations used in the treatment of hypochromic anemias after malabsorption has been clinically demonstrated.

(5) Payment shall not be made for a prescription ordered for an individual recipient and used to replace drugs drawn from the doctor's stock for the treatment of such recipient. Payment shall not be allowed for experimental or controversial medications and those unrelated to the above. [Order 1170, § 388-91-016, filed 11/24/76; Order 1154, § 388-91-016, filed 9/22/76; Order 884, § 388-91-016, filed 12/17/73; Order 682, § 388-91-016, filed 5/10/72; Order 487, § 388-91-016, filed 10/13/70; Order 461, § 388-91-016, filed 6/17/70, effective 8/1/70.]

**WAC 388-91-020 Nonformulary prescription drugs—Medical consultant approval.** (1) Normal requests. A request for nonformulary prescription drugs must be submitted by the attending physician to the local medical consultant for prior approval. The request must be to meet a medically mandatory condition supported by proper diagnosis and justification for the nonformulary drug.

(2) Emergency requests. Payment may be made for nonformulary drugs prescribed without prior approval [approval] only on an acute emergency, and if the physician can substantiate that a nonformulary drug is mandatory. Form DSHS 6-02 with justification must be in the department's ESSO within seventy-two hours for consideration by the medical consultant.

(3) All prescriptions (both formulary and nonformulary) priced at more than the established maximum limit set by the department must be approved by the local medical consultant before payment will be made. [Order 1170, § 388-91-020, filed 11/24/76; Order 884, § 388-91-020, filed 12/17/73; Order 461, § 388-91-020, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-020, filed 10/31/68.]

**WAC 388-91-030 Drugs—Prescription, form DSHS 6-02 (5889).** (1) The department's official prescription, form DSHS 6-02 (5889), must be used. A supply may be obtained from the department's local office.

(2) Only one prescription may be written on form DSHS 6-02 (5889). Each prescription must bear specified unit and interval dosage.

(3) Prescriptions for formulary drugs only may be re-filled at the discretion and choice of the prescribing physician. Form DSHS 6-02 may be marked by the physician on line C-1 REFILL 1, 2, PRN. The use of pre-signed prescription blanks to be filled out by the nursing home operators or pharmacists is prohibited. This practice shall be considered sufficient grounds for cancelling the vendor agreement of participating providers involved.

(4) To assure prompt payment, a coupon from the recipient's medical care identification booklet, form DSHS 13-05, should be attached by the pharmacist to the individual's prescriptions. When a coupon is not available the provider may submit a billing without this coupon although the processing by the department may be somewhat slower. Payment will be made for all appropriate goods and/or services provided to eligible recipients.

(5) Accurate recording of all data on the prescription is essential. Any error or lack of clarity in the prescription national drug code number or number of units dispensed will delay payment. Typed prescriptions are preferred and expedite payment.

(6) The department's Drug Handbook and Index shows the manufacturers' national drug codes currently included in the Department machine drug payment table. These are corrected and updated regularly. [Order 884, § 388-91-030, filed 12/17/73; Order 461, § 388-91-030, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-030, filed 10/31/68.]

**WAC 388-91-035 Drugs—Pharmacist's agreement.** (1) Vendor service agreement, form DSHS 6-48 must be filed with department of social and health services, Olympia, Washington 98504. Forms may be obtained from the department's ESSO.

(2) To participate in this program, a licensed pharmacy must agree to furnish goods and services in accordance with the department's rules, regulations and payment procedures. Fees and rates established by the department according to WAC 388-91-020(3) shall constitute the full and complete charge for approved medical care and goods and services provided to recipients by the vendor or providers.

(3) All pharmacists and pharmacies agreeing to render goods and services to eligible persons shall submit such charges as agreed upon between the department and the individual or firm monthly and shall present their final charges not more than sixty days after the termination of their service or as otherwise provided by state law. Bills presented after the required sixty-day period shall be a charge against the state only when a written extension has been given by the health services division before the sixty-day period ends. [Order 1170, § 388-91-035, filed 11/24/76; Order 884, § 388-91-035, filed 12/17/73; Order 461, § 388-91-035, filed 6/17/70, effective 8/1/70.]

**WAC 388-91-040 Drugs—Pricing standards.** (1) Whenever possible all drugs and prescriptions must be confined to those listed in the department's current drug formulary.

(2) The department shall not be charged more than the general public or more than the cost price plus the established dispensing fee whichever is the lower for the drug. Any other pricing practices such as granting discounts, special commissions, fees, etc., to patients, institutions, or corporations shall be taken into account by the department and the pharmacist in defining the charge to the general public.

(3) List price, as established for cost determination, in the latest red book, blue book or retailer invoice cost, whichever is lower to the retailer, plus the established dispensing fee. Cost is defined as the unit cost, based on maximum size container stocked in the pharmacy (100, 1000, 5000, etc., and pints or gallons, etc.).

(4) There shall be no differential in pricing prescriptions issued in less than manufacturer's size.

(5) Drug costs are subject to change up or down with the latest edition or red book cumulative supplement. [Order 1154, § 388-91-040, filed 9/22/76; Order 970, § 388-91-040, filed 9/13/74; Order 884, § 388-91-040, filed 12/17/73; Order 461, § 388-91-040, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-040, filed 10/31/68.]

**WAC 388-91-050 Out-of-state prescriptions.** (1) Drugs provided residents of the state of Washington who are temporarily out of the state as defined in WAC 388-26-060 and 388-30-055 shall be authorized as part of medical care within the scope of WAC 388-86-115. Border situations as described by WAC 388-82-030(4) and (5) are not subject to out-of-state rules and are to



be considered as care provided in the state of Washington.

(2) Drugs provided by out-of-state pharmacists (border situations excepted) shall require the approval of the local medical consultant before payment can be made. [Order 475, § 388-91-050, filed 9/8/70; Order 316, § 388-91-050, filed 10/31/68.]

**Chapter 388-92 WAC**

**MEDICAL CARE FOR PERSONS RECEIVING BENEFITS UNDER TITLE XVI OF SOCIAL SECURITY ACT—ELIGIBILITY—INCOME AND RESOURCE STANDARDS**

**WAC**

388-92-005	Definitions.
388-92-010	Description of program.
388-92-015	General eligibility.
388-92-020	Application for medical care.
388-92-025	Computation of available income.
388-92-030	Monthly maintenance standard—Person not in institution.
388-92-035	Monthly maintenance standard—Person in institution.
388-92-040	Availability of resources.
388-92-045	Excluded resources.
388-92-050	Limitation of resources.
388-92-055	Allocation of income and resources.
388-92-060	Authorization.
388-92-065	Termination of SSI beneficiary.
388-92-070	Person converted into Title XVI.

**WAC 388-92-005 Definitions.** The definitions in WAC 388-92-005 apply only to chapter 388-92 WAC.

(1) Beneficiary – A person who receives a cash benefit under Title XVI and/or state supplement.

(2) Deleted

(3) Income – The receipt by an individual of any property or service which he can apply either directly, by sale, or conversion to meet his basic needs for food, clothing, and shelter.

(a) Earned income means gross wages and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.

(b) Unearned income means all other income including but not limited to

(i) Support and maintenance furnished in cash or kind.

(ii) Prizes and awards – This includes prizes won in a contest, lottery, or game of chance or awards received as the result of a decision or judgment of a court, a board of arbitration, or the like, but not ordinarily from a competition. When a prize or award is not in cash, the current fair market value of the item is counted as unearned income.

(iii) Proceeds of any life insurance policy to the extent that they exceed the amount expended for the purposes of the insured individual's last illness and burial or \$1500, whichever is less.

(iv) Gifts (cash or otherwise), support and alimony payments.

(v) Rent – Rent represents compensation in cash or in kind for the use of real or personal property, for example, land, an apartment, a room, machinery. Only ordinary and necessary "out of pocket" expenses incurred in operating the property are deducted from the gross rent.

(4) Institution – An establishment which furnishes food and shelter to four or more persons unrelated to the proprietor and, in addition, provides some treatment or services which meet some need beyond the basic provision of food and shelter. This would include hospitals, skilled nursing facilities (extended care facilities or skilled nursing homes), and intermediate care facilities, but does not include correctional institutions.

(5) Resources – Cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

(a) If an individual can reduce a liquid asset to cash, it is a resource.

(b) If an individual cannot reduce an asset to cash, it is not considered a resource.

(c) Liquid – Properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.

(d) Nonliquid – All other property both real and personal shall be evaluated according to the price the item can reasonably be expected to sell for on the open market in the particular geographical area involved.

(6) Retroactivity – The provision to make payment for unpaid medical bills for covered services for an applicant for FAMCO or Title XVI benefits, provided that such applicant is determined to have been eligible at the time services were received. The retroactive period shall begin no earlier than the first day of the third month prior to the month of application and shall extend up to the date of application. (See WAC 388-84-005(2) and WAC 388-87-015(3) and (4)).

(7) SSA – Social security administration.

(8) SSI – Supplemental security income under Title XVI of the social security act.

(9) State supplement – Amount paid in addition to SSI under Title XVI of the social security act.

(10) Title SSI – A national program to provide supplemental security income (SSI) to individuals who have attained age 65, or are blind, or disabled. [Order 996, § 388-92-005, filed 12/31/74; Order 930, § 388-92-005, filed 4/25/74; Order 898, § 388-92-005, filed 1/25/74.]

**WAC 388-92-010 Description of program.** The department shall provide medical assistance within the limitations set forth under these rules and regulations to:

(1) A beneficiary of Title XVI,

(2) An individual who meets criteria of Title XVI of the social security act except that his income and/or resources exceed Title XVI standards. [Order 996, § 388-92-010, filed 12/31/74; Order 898, § 388-92-010, filed 1/25/74.]

**WAC 388-92-015 General eligibility.** (1) Citizenship – must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States including an alien who is lawfully present in the United States according to specified sections of the Immigration and Nationality Act. (See WAC 388-26-120).

(2) Residence – see WAC 388-83-025.

(3) Medical need

(a) Beneficiaries of SSI and/or state supplement under Title XVI are not required to have a medical need in order to be eligible for medical assistance.

(b) An applicant not eligible for SSI benefits or state supplementation under Title XVI must claim to have a medical need at the time of application or, for retroactivity only, at the time services were rendered. (See WAC 388-92-005(6)).

(4) For the purposes of medical assistance related to Title XVI, the applicant must be:

(a) Age 65 or over; or

(b) Blind, with central visual acuity of 20/200 or less in the better eye with the use of a correcting lens, or with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees; or

(c) Disabled, that is, unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic technique, except that an applicant for disability who is medically determined to be a drug addict or alcoholic shall be ineligible for any month unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic at an institution or facility approved for that purpose (so long as such treatment is available) and demonstrates compliance with the terms, conditions and requirements of such treatment.

(5) Temporary absence

(a) If a resident of the state of Washington is temporarily in another state and requires medical care, and is eligible for medical assistance, the responsibility for medical payment rests with the state of Washington. The standard of care will be no different than that authorized within the state.

(b) A resident of Washington who requires medical assistance outside the United States will be provided care according to WAC 388-82-030. [Order 1196, § 388-92-015, filed 3/3/77; Order 967, § 388-92-015, filed 8/29/74; Order 898, § 388-92-015, filed 1/25/74.]

**WAC 388-92-020 Application for medical care.** (1) For rules and regulations regarding right to apply see WAC 388-84-005.

(2) The spouse of any individual applying for FAMCO related to Title XVI must apply for medical care separately as eligibility does not carry over to such spouse.

(3) Processing of application.

(a) For the aged and blind, the decision on an application shall be made with reasonable promptness but not later than 30 days from date of the request, except for a situation in which circumstances such as the critical condition of an applicant or his death following application may delay the determination of eligibility.

(b) For disability related applications, the decision may be delayed up to 60 days pending determination of disability or longer in unusual circumstances such as failure or delay on the part of the applicant or examining physician, or because of administrative or other emergency that could not be controlled. In such cases, documentation of the circumstances is to be recorded in the record.

(4) Disposition of application.

(a) Approval

(i) Certification will be effective as of the first day of the month of application, except that for purposes of retroactivity certification shall begin no earlier than the first day of the third month prior to the month of application.

(ii) All applicants shall be informed of the department's services, right to a fair hearing, and civil rights. This shall be noted in the case record. Notification of the department's action shall be by means of an award letter which will indicate the amount of participation, if any.

(iii) A temporary medical care identification card will be issued by the ESSO. Subsequently, the medical care identification card will be issued monthly from state office for the duration of eligibility.

(b) Denial of application

(i) When an application is denied, the applicant shall be notified in writing of the specific reason(s) for the denial and shall be informed of the right to a fair hearing – see WAC 388-38-172.

(ii) An application for medical care shall be denied when:

(A) An applicant does not meet the criteria of age, disability or blindness according to Title XVI. (See WAC 388-82-020 for consideration of medical care under the MS program.)

(B) An applicant for FAMCO does not claim to have a medical need at the time of application. (For retroactivity see WAC 388-92-015(3)(b).)

(C) The amount of participation with excess income will obviously exceed the cost of medical care.

(D) The applicant refuses to dispose of nonexempt resources or refuses to attempt to dispose of such resources. (See WAC 388-83-060.)

(c) Withdrawal of an application shall be treated as in WAC 388-38-172. [Order 1111, § 388-92-020, filed 4/15/76; Order 898, § 388-92-020, filed 1/25/74.]

**WAC 388-92-025 Computation of available income.**

(1) Income shall be defined as in WAC 388-92-005.

(a) Total income of a beneficiary of supplemental security income, except for institutionalized recipients, is not considered an available resource.

(b) Income and resources are considered separately for spouses who cease to live together in a common household, and blind or disabled children separated from parents, after the month of separation when the separated individual is the sole recipient related to SSI, and after six calendar month's separation if both spouses are SSI-related recipients.

(c) If a minor applies for medical care the parent legally responsible for the support of the child is also by law financially responsible for the payment for medical provided to the child. In such case the standards in WAC 388-83-035 shall apply to determine available income to meet the medical needs of the child. See also WAC 388-24-550.

(d) For a pregnant minor see WAC 388-82-015.

(2) Net cash income shall be determined as for the Title XVI category to which the applicant for FAMCO is relatable according to WAC 388-92-015(4).

(3) To arrive at available income, the following items shall be excluded sequentially from income:

(a) Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual or spouse;

(b) State public assistance based on financial need;

(c) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational institution;

(d) Income that is not reasonably anticipated, or received infrequently or irregularly, if such income does not exceed \$20 per month if unearned, or \$10 per month if earned;

(e) Any amounts received for the foster care of a child, who is not an eligible individual, but who is living in the same house as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(f) The first \$20 per month of earned or unearned income, not otherwise excluded above, for a person at home. The exclusion is considered only once for a husband and wife. There is no exclusion on income which is paid on the basis of need of the eligible individual, such as VA pension and cash from private charitable organizations. For a person in an institution, the exclusion is considered in determining eligibility and allocated as participation in cost of medical care.

(g) Tax exempt payments received by Alaska Natives under the Alaska Native Claims Settlement Act.

(h) Tax rebates or special payments exempted by federal regulations and publicized by numbered memoranda from the state office.

(i) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973.

(4) An individual under the age of 21 who is a student regularly attending a school, college or university or pursuing a course of vocational or technical training designed to prepare him for gainful employment will have all earned income excluded.

(5) One-third of any payment for child support received from an absent parent will be excluded.

(6) Earned income "disregards" to be applied sequentially against the remaining income shall be

(a) If such individual is blind and under age 65:

(i) The first \$85 per month of earned income not excluded according to subsection (3), plus one-half of the remainder;

(ii) The expenses reasonably attributable to the earning of any income as defined in subsection (7).

(b) If such an individual is disabled but not blind and is under age 65:

(i) The first \$65 per month of earned income not excluded according to subsection (3), plus one-half of the remainder;

(ii) The expenses reasonably attributable to the earning of any income as defined in subsection (7).

(c) If such an individual is age 65 or over:

(i) The first \$65 per month of earned income not excluded according to subsection (3), plus one-half the remainder;

(ii) The expenses reasonably attributable to the earning of any income as defined in subsection (7).

(d) If a spouse of the individual in subdivisions (6)(a)(b) or (c) applies in his or her own right and can meet the appropriate criteria under Title XVI, the "disregards" are considered only once for the husband and wife.

(7) To arrive at net income of nonapplying spouse, the following personal and nonpersonal work expenses shall be deducted from earned income:

(a) Mandatory deductions as required by law or as a condition of employment;

(b) Necessary cost of public transportation or eight cents a mile for private car to and from place of employment;

(c) Expenses of employment which are necessary to that employment such as tools, materials, union dues;

(d) Additional clothing costs: for individual 18 or older, \$5.70; for persons enrolled in a remedial education or vocational training course, the actual cost of uniforms and/or special clothing;

(e) The cost of child care necessary to employment if not provided without cost or as departmental service. The actual expense shall be deducted but not to exceed standard in WAC 388-15-170. [Order 1227, § 388-92-025, filed 8/8/77; Order 1158, § 388-92-025, filed 10/6/76; Order 1112, § 388-92-025, filed 4/15/76; Order 1067, § 388-92-025, filed 11/17/75; Order 1061, § 388-92-025, filed 10/8/75; Order 996, § 388-92-025, filed 12/31/74; Order 967, § 388-92-025, filed 8/29/74; Order 960, § 388-92-025, filed 8/13/74; Order 898, § 388-92-025, filed 1/25/74.]

**WAC 388-92-030 Monthly maintenance standard—Person not in institution.** (1) After computing available income according to WAC 388-92-035(1) through (6) for Title XVI related federal and medical care only, the monthly maintenance standards in subsection (3) and (4) shall be allowed for an individual not in an institution or for dependents maintaining the family

home of an institutionalized recipient effective July 1, 1977.

(2) Deleted.

(3) Monthly standard

Family size	Standard
1	\$219
2	312
3	355

(4) To the standards in subsection (3) for a family of 3, \$61 shall be added for each additional member. [Order 1246, § 388-92-030, filed 10/11/77; Order 1144, § 388-92-030, filed 8/26/76; Order 1015, § 388-92-030, filed 3/27/75; Order 1040, § 388-92-030, filed 8/7/75; Order 996, § 388-92-030, filed 12/31/74; Order 952, § 388-92-030, filed 7/16/74; Order 930, § 388-92-030, filed 4/25/74; Order 898, § 388-92-030, filed 1/25/74.]

**WAC 388-92-035 Monthly maintenance standard—Person in institution.** The monthly maintenance amount for aged, blind, and disabled individuals receiving continuous care throughout a calendar month in a hospital, skilled nursing home, intermediate care facility or institution for mental disease, who are covered under Title XIX, shall be the amount allowed for medicaid recipients related to Title XVI for clothing and personal incidentals. For definition of institution see WAC [388-92-005]. [Order 898, § 388-92-035, filed 1/25/74.]

**WAC 388-92-040 Availability of resources.** In establishing eligibility for medical assistance, only those resources actually available or "in hand", or expected to be "in hand", within a three month period shall be considered. The three month period includes the month in which covered medical services were initiated. The department's rules for disregarding or setting aside any resources for future needs will be applied. [Order 1233, § 388-92-040, filed 8/31/77; Order 930, § 388-92-040, filed 4/25/74; Order 898, § 388-92-040, filed 1/25/74.]

**WAC 388-92-045 Excluded resources.** In determining the resources of an individual and spouse, if any, the following items shall be excluded up to the dollar limit, if any, as indicated:

(1) The home as defined in WAC 388-28-420. The proceeds from the sale of a home, which is an excluded resource, will also be excluded to the extent that they are re-invested in the purchase of another home which is similarly excluded within three months of the date of receipt of proceeds.

(2) Household goods and personal effects as defined in WAC 388-28-430(1).

(3) An automobile will be totally excluded if it is used for employment or for the individual's medical treatment; otherwise, the current retail market value up to \$1,200, any excess to be counted against the resource limit in WAC 388-92-050.

(4) Property of a trade or business which is essential to the means of self-support; however, it shall not include liquid resources as defined in WAC 388-92-005

even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall not exceed limits which take into account the nature of the business and the gross and net income such business may be expected to produce in light of such property.

(5) Nonbusiness property which is essential to the means of self-support. This shall include:

(a) Nonliquid (see WAC 388-92-005), non-business property if it is relied upon by the individual as a significant factor in producing income on which he can live, or is used to produce goods, or provide services essential to the individual's support.

(b) Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual.

(c) Tools, equipment, uniforms and similar items required by the individual's employer.

(d) A motor vehicle (in addition to that already excluded) which is essential because of climate, terrain, or similar factors, or special modification, and required to provide necessary transportation. The limitation on value of such vehicle is the same as (3) above.

(6) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support for so long as such plan remains in effect.

(7) Shares of stock held in a regional or village corporation during the period of 20 years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

(8) Life insurance owned by an individual and spouse, if any, to the extent of its cash surrender value, provided that the total face value of policies held by each individual is \$1500 or less, in which case the cash surrender value is not evaluated. If the face value of policy(ies) is over \$1500, cash surrender value must be applied to resource limitations in WAC 388-92-050 and the excess must be applied to participation. Term or burial insurance with no cash surrender value is not considered in determining face value.

(9) Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government.

(10) Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., is excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within three months if the resource is personal property, and six months if the resource is real property. Any such cash not so used within such time periods is considered as an available resource. [Order 1015, § 388-92-045, filed 3/27/75; Order 898, § 388-92-045, filed 1/25/74.]

**WAC 388-92-050 Limitation of resources.** The total value of resources allowed and not otherwise excluded shall not exceed \$1,500 for a single individual or \$2,250 for a family of two. The maximum amount shall

be increased by \$50 for each additional member in the household.

Family Size	Total Allowed
1	\$1,500
2	2,250
3	2,300
4	2,350
5	2,400
6	2,450
7	2,500
8	2,550
9	2,600
10	2,650

[Order 898, § 388-92-050, filed 1/25/74.]

**WAC 388-92-055 Allocation of income and resources.** (1) Available income shall be allocated in the following order to:

(a) Maintenance need of individual living outside an institution according to WAC 388-92-025 and 388-92-030 or legal dependents living in family home if individual is in an institution; see WAC 388-92-025(1)(a).

(b) Maintenance need for individual in an institution according to WAC 388-92-035; see WAC 388-92-025(1)(a).

(c) Cost of medical insurance premiums in force at time of certification.

(d) Costs not covered under this program for medical or remedial care as determined necessary by the attending physician or, where appropriate, a dentist (see WAC 388-91-016(1)(a)) except that

(i) Costs for services denied as medically inappropriate or not medically necessary, covered by medicare or other benefits or denied because of poor justification or late billing may not be exempted.

(e) Payments made or being made for covered or noncovered medical care incurred within three months prior to month of application.

(2) Participation in cost of care shall apply to:

(a) The monthly excess income multiplied by six or the anticipated excess income that will be available within a six-month period, whichever is greater, if the individual is living outside an institution,

(b) The monthly excess income of an individual in an institution, after allowing for clothing and personal incidentals, until the end of six month's separation from a spouse at home when both are SSI-related recipients. See WAC 388-92-025(1)(b),

(c) The resources in excess of those in WAC 288-92-050,

(d) Additional cash resources that come into possession of the individual during a period of certification,

(e) All other resources for payment of medical care available to the individual, including the income exclusion described in WAC 388-92-025(3)(f) for a person in institution. [Order 1227, § 388-92-055, filed 8/8/77; Order 996, § 388-92-055, filed 12/31/74; Order 960, § 388-92-055, filed 8/13/74; Order 898, § 388-92-055, filed 1/25/74.]

**WAC 388-92-060 Authorization.** (1) Initial certification

(a) If the individual is in an institution, certification may be up to one year.

(b) All other individuals are certified when their eligibility for medical assistance has been determined, depending upon the anticipated duration of medical need, but not to exceed six months.

(2) Redetermination of eligibility. Eligibility for medical assistance shall be redetermined no less often than every six months for an individual outside an institution or yearly, if in an institution.

(3) Change of circumstances. Any person certified for medical assistance who comes into possession of any income or resources, not otherwise declared, or whose medical eligibility or need ceases, shall notify the department immediately. Eligibility shall be redetermined within 30 days following such notification.

(4) Notification of decision. A person shall be notified in writing on the appropriate state form when his eligibility for medical assistance is initially certified, redetermined or when there is any change in circumstances. [Order 1111, § 388-92-060, filed 4/15/76; Order 898, § 388-92-060, filed 1/25/74.]

**WAC 388-92-065 Termination of SSI beneficiary.**

(1) Authorization of medical assistance of any SSI beneficiary who meets the blindness or disability criteria under Title XVI, and who ceases to be blind or to be under such disability, shall be terminated from medical assistance at the end of the second month following the month in which such blindness or disability ceases provided there continues to be a medical need during that time.

(2) For any individual who is no longer eligible for Title XVI financial benefits, eligibility for FAMCO shall be determined promptly. If the termination notice of financial benefits is received from SSA [SSI], eligibility for medical assistance would ordinarily terminate as of the end of that month, unless a timely request for a hearing pertaining to eligibility for cash benefits has been made to SSA [SSI]. In such case, certification may not extend beyond the end of the next month unless he has been determined to be eligible for FAMCO. [Order 898, § 388-92-065, filed 1/25/74.]

**WAC 388-92-070 Person converted into Title XVI.**

(1) An individual and the essential person who were converted to Title XVI benefits effective January 1, 1974, shall be eligible for medical assistance.

(2) When eligibility for benefits ceases, the individual shall be terminated:

(a) The month in which such individual dies, or

(b) The first full month in which the individual no longer meets the age, blindness or disability criteria in WAC 388-93-015, or no longer meets the residence required by WAC 388-83-025.

(3) For persons who according to WAC 388-83-027(3) were determined ineligible for financial assistance because of the twenty per cent social security increase, eligibility for medical assistance as categorically

needy continues until other change in circumstances affects eligibility.

(4) The individual who was converted to Title XVI has the right to request termination and reapply under Title XVI standards and criteria.

(5) When an individual who was converted to Title XVI is terminated from the SSI benefit and no known medical need is indicated and subsequent application is made, eligibility will be determined according to chapter 388-92 WAC. [Order 1196, § 388-92-070, filed 3/3/77; Order 996, § 388-92-070, filed 12/31/74; Order 960, § 388-92-070, filed 8/13/74; Order 898, § 388-92-070, filed 1/25/74.]

### Chapter 388-93 WAC MEDICAL CARE FOR GRANDFATHERED RECIPIENTS

WAC	
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388-93-020	Eligibility—Blindness defined.
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388-93-030	Refusal of disabled recipient to accept available and recommended medical treatment—Effect on eligibility.
388-93-035	Refusal of disabled recipient to accept available and recommended medical treatment—Review for disability or blindness.
388-93-040	Computation of available income.
388-93-045	Monthly maintenance standard—Individual living in own home.
388-93-050	Monthly maintenance standard—Individual in institution.
388-93-055	Allocation of available income and nonexempt resources.
388-93-060	Exempt resources.
388-93-065	Nonexempt resources.
388-93-070	Transfer of resources within two years prior to application.
388-93-075	Continuing certification.
388-93-080	Application following termination of eligibility.

**WAC 388-93-005 Definitions.** A "grandfathered" recipient of Title XIX is an individual who

(1) had been determined eligible for nongrant and medical assistance related to old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) as of December 31, 1973, and

(2) continues to satisfy the criteria for the related categories as defined in WAC 388-93-020 or 388-93-025, and

(3) meets the financial standards as defined in WAC 388-93-040 through 388-93-055, and

(4) has a medical need. [Order 996, § 388-93-005, filed 12/31/74.]

**WAC 388-93-010 Description of program.** The department shall provide medical assistance within the limitations set forth in these rules and regulations to an individual who is a grandfathered recipient as defined in WAC 388-93-005. [Order 996, § 388-93-010, filed 12/31/74.]

**WAC 388-93-015 Eligibility—General.** (1) There is no requirement of citizenship imposed as a condition of eligibility for benefits under the medical care program.

(2) Residence – see WAC 388-83-025.

(3) Medical need – The grandfathered recipient must have a medical need to remain eligible for medical assistance under Title XIX of the social security act. For example, disability per se does not constitute a medical need; treatment of disability does.

(4) To continue to be eligible for federal aid medical care only the grandfathered recipient shall be

(a) age 65 or older, or

(b) disabled as defined in WAC 388-93-025, or

(c) blind as defined in WAC 388-93-020 and not publicly soliciting alms by wearing, carrying or exhibiting signs denoting blindness, carrying receptacles for the reception of alms or doing the same by proxy or by begging.

(i) It shall be assumed that a blind person is not soliciting alms unless there is evidence to the contrary. [Order 996, § 388-93-015, filed 12/31/74.]

**WAC 388-93-020 Eligibility—Blindness defined.** Blindness is defined in terms of ophthalmic measurements as

(1) Central visual acuity of 20/200 or less in the better eye with the best possible corrective glasses, or

(2) Contraction of the peripheral field of vision to within twenty degrees of the fixation point in all quadrants as determined by standard perimetric testing, or

(3) Muscle function, measured in all parts of the motor field and charted upon 20 rectangles, 4 x 5 degrees in size, equal to 18/20 binocular or monocular. [Order 996, § 388-93-020, filed 12/31/74.]

**WAC 388-93-025 Eligibility—Permanently and totally disabled defined.** (1) In general, "permanently and totally disabled" means that the individual has some permanent physical or mental impairment, disease or loss that substantially precludes him from engaging in a useful occupation within his competence, such as holding a substantially gainful job or homemaking. The impairment may be physical or mental, organic or functional, and of such degree as to interfere with the individual's faculties, such as senses, reasoning, mobility. It may exist from birth, be acquired during the lifetime of the individual, or result from accident. It may be obvious, such as loss of a limb, or it may be such that it can be revealed only by medical examination. It may exist singly or in combinations.

(2) The term "permanently disabled" refers to the existence of a physiological, anatomical, emotional and/or mental impairment verified by medical findings, which is of major importance, and is a condition not likely to improve, but will continue throughout the lifetime of the individual. Any condition which is considered by the medical reviewer as not likely to respond to any known therapeutic procedure shall be deemed to be a permanent impairment. Furthermore, any condition which is considered as likely to remain static or to become worse unless certain therapeutic measures are carried out shall

be deemed to be permanent so long as treatment is unavailable, inadvisable, or the individual refuses treatment and his decision is reasonable – see WAC 388-93-030.

(a) Decision that an impairment is permanent can be made even though recovery from the impairment is possible. The discovery of new drugs or other advances in medical treatment is always a potential which may change a permanent "situation"; pending the actual physical improvement, the classification is proper. Therefore, the term "permanent" need not be everlasting or unchangeable, but is used in the sense of continuing indefinitely as distinct from temporary or transient.

(b) A physician's medical report must be used to establish the existence of an impairment and its permanency.

(3) The term "totally disabled" refers to an individual's ability to perform those activities necessary to carry out specified responsibilities such as those necessary to employment or homemaking. Totality involves considerations in addition to those verified through the medical findings such as age, training, skills and work experience, and the functioning of the individual in his particular situation in light of his impairment. Such social data will describe the individual's education and work history, the activities required of him in his home or in his job, living conditions, interests, his capacity and limitations, and the extent to which he has adjusted to his impairment.

(a) Job training may enable a permanently and totally disabled person to acquire a new skill in spite of his impairment. However, during a reasonable period of training and until he acquires job competence, he continues to be totally disabled.

(b) The social summary must show how the person reacts in social situations in order to illustrate that his disability substantially precludes him from engaging in employment or homemaking in the foreseeable future. The social worker carries the major responsibility for providing the state office review team with the recorded objective social information bearing on the totality factor.

(4) The term "substantially precludes" relates to the extent to which an individual's permanent impairment has left him unable to engage in those activities necessary to carry on specified responsibilities such as employment and homemaking. If an individual is able to perform such activities well enough and with sufficient regularity to receive substantial payment for his effort or to carry on homemaking responsibilities on a continuing basis, he is not considered as precluded from engaging in "useful occupations" and cannot be found to be permanently and totally disabled.

(5) The term "useful occupations" means productive activities which add to the economic wealth, or produce goods or services to which the public attaches a money value. However, the person whose impairment is so severe that it results in his being unable to leave his bed, leave his home or maintain body hygiene without help of another person, and for whom the assumption would commonly be made that he could not engage in any useful occupation, but in fact, through supreme effort he

does some work shall have his ability evaluated in light of

(a) The extent to which sympathy or compassion enters into the opportunity to engage in remunerative work. In other words, is the individual able to do something because family, friends, or neighbors help more than is usual — for example, running errands, bringing him materials, "engineering" the job, helping devise and create special tools, creating a market based more on sympathy than intrinsic value received, selling through church or other organization without charging the usual commission, etc., and

(b) The extent to which the energy which must be discharged by the person is far beyond that which is ordinarily required for that activity. For example, does it take him six or seven hours to do what most workers could do in an hour?

(c) If through careful consideration of such facts, in addition to the medical and social reports, it can be reasonably concluded that this individual is doing more than can ordinarily be expected from individuals with the impairments of similar severity, but his activity is not substantially gainful, a finding of permanent and total disability may be reached.

(6) The term "homemaking" involves the ability to carry the home management and decision making responsibilities and provide essential services within the home for at least one person in addition to oneself. This may be either a man or a woman. If homemaking is such that children are neglected or the other person receives practically no benefit from her efforts, these facts should be clearly shown in the social summary. If she must have the help of other persons to complete the essential household tasks, it may be shown that she is not actually able to perform as a homemaker. The following activities are important to successful performance of the occupation of homemaking – shopping for food and supplies; planning and preparing meals; washing dishes; cleaning house; making beds; washing and ironing clothes and, if the care of young children is within the homemaking responsibility – lifting and carrying infants; bathing and dressing young children; training and supervising children; accompanying children to community activities and to sources of medical care.

A finding that a person is unable to perform the occupation of homemaking would require that the individual is unable to perform a significant combination or grouping of these activities because of his permanent impairment. When homemaking is the responsibility of the applicant, determination shall be made as to whether a permanent impairment prevents the applicant from totally meeting such responsibility.

(7) Special emotional problems

(a) Alcoholism. For alcoholism to be considered permanently and totally disabling, since there is such variation in the severity of alcoholism, at least one of the following criteria are required for approval of permanent and total disability:

(i) Evidence that a pathological or demonstrable organic damage has resulted from chronic alcoholism, such as neuritis or cirrhosis of the liver;

(ii) Evidence that the alcoholism has reached the addiction state as shown by marked ethical deterioration, the obsessive character of the drinking, the approaching loss of alcohol tolerance, prolonged bouts, and a breakdown of the rationalization pattern;

(iii) A history of several years of excessive drinking to the extent that it has adversely affected his interpersonal relationships and his social and economic functioning — loss of employment and inability to sustain employment because of excessive drinking.

(b) **Personality inadequacy.** Even though the medical report does not show a physical ailment which of itself is permanently disabling, a person may be found to be permanently and totally disabled if the medical or psychiatric report together with the social report supplemented with a psychological report, if indicated, shows an extended history of a combination of personality problems, character disorders or social inadequacies including unusual behavior, which prevents the person from making the adjustment required for an employable person or a homemaker.

(i) This would include the person whose responses to his environment are habitually inadequate and who seems to have limited or no voluntary control over his reactions. The symptoms of this emotionally unstable personality usually are demonstrated in antisocial or unconventional behavior of one kind or another, for example, drug addiction or alcoholism. The person does not get along with other people and may break many of society's rules. Most of these persons have had one difficulty after another since childhood with the typical lack of awareness and lack of remorse that is associated with this kind of behavior. The repetitive nature of their problems coupled with the lack of motivation for change produces an individual whose pattern provides a serious permanent impairment that can be totally disabling. Examples of this kind of personality inadequacy might be

(A) a patient returning from a mental hospital who is no longer psychotic but whose behavior would be unacceptable to a prospective employer or to his family;

(B) The person who has never been able to hold a job due to a pattern of emotional instability, or other unusual behavior which shows that the individual is unable, for an extended period, to substantially engage in any gainful occupation or homemaking;

(C) Drug addiction over an extended period of time.

(ii) In all cases of personality inadequacy, the reports specified in subsection (7)(b) are required. [Order 996, § 388-93-025, filed 12/31/74.]

**WAC 388-93-030 Refusal of disabled recipient to accept available and recommended medical treatment—Effect on eligibility.** (1) A disabled recipient who refuses without good cause to accept available medical treatment which can reasonably be expected to render him able to work or do homemaking shall become ineligible.

(2) "Available medical treatment" shall mean and include medical, surgical, or psychiatric therapy, or any combination thereof.

(3) "Reasonably be expected to render him able to work or do homemaking" shall mean that, in the opinion

of the state office review team, the recommended medical, surgical, or psychiatric therapy or any combination thereof, is of such a nature and prognosis that, in the specific instance of the individual involved, medical experience indicates that the recommended treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner or to engage in homemaking.

(4) For the purposes of this section, a recipient has good cause to refuse recommended medical treatment when, according to the best objective judgment of the state office review team, such refusal is based upon one or more of the following conditions:

(a) The individual is genuinely fearful of undergoing recommended treatment. Such fear may appear to be unrealistic, or entirely emotional in origin, or irrational; however, fear exists in such a degree that treatment would be adversely affected and the doctor may therefore be dubious about undertaking to treat the individual, or

(b) The individual could lose a faculty, or the remaining use of faculty he now has, and refuses to accept the risk, or

(c) Because of his definitely stated religious scruples, the individual will not accept recommended medical treatment.

(5) The controlling principle in determining whether refusal was for or without good cause rests with the state office review team which will be guided by whether a reasonable, prudent man under similar circumstances would accept the recommended treatment. The determination will be made only after considering all social and medical evidence, including that furnished by the individual himself, who will be provided with an opportunity to set forth in writing his objective reasons for declining recommended treatment. A determination that a refusal to accept treatment is without good cause is a decision which the recipient may appeal according to chapter 388-08 WAC. [Order 996, § 388-93-030, filed 12/31/74.]

**WAC 388-93-035 Refusal of disabled recipient to accept available and recommended medical treatment—Review for disability or blindness.** (1) The grandfathered FAMCO recipient's blindness or permanent and total disability shall be reviewed when a significant change has occurred.

(2) If a change in blindness has occurred, an eye examination shall be secured from an ophthalmologist or optometrist and evaluated by the department's ophthalmological consultant. The ophthalmological consultant shall determine and certify whether legal blindness continues to exist.

(3) If a change in disability has occurred, a medical examination shall be secured. The medical reports shall be evaluated by the office of personal health services to determine whether permanent and total disability continues to exist. [Order 996, § 388-93-035, filed 12/31/74.]

**WAC 388-93-040 Computation of available income.** (1) Income and net income shall be as defined in WAC



388-22-030. Supplementary security income is not considered an available resource.

(2) To arrive at available income, the following items shall be deducted from net income:

(a) Support payments being paid by the recipient under court order,

(b) Special nonmedical needs, such as payment to a wage earner's plan (specified by the court in a bankruptcy proceeding), or previously contracted major household repairs if failure to make such payments would result in garnishment of wages or loss of employment.

(c) Tax rebates or special payments exempted by federal regulations and publicized by numbered memoranda from the state office.

(3) The exempt earned income shall be:

(a) For a former recipient of old age assistance or of disability assistance - the first \$20 plus one-half of the next \$60,

(b) For a former recipient of aid to the blind - the first \$85 plus one-half of the amount over \$85.

(4) Personal and nonpersonal work expense shall be deducted from earned income as follows:

(a) Mandatory deductions as required by law or as a condition of employment;

(b) Necessary cost of public transportation or eight cents a mile for private car to and from place of employment;

(c) Expenses of employment which are necessary to that employment such as tools, materials, union dues;

(d) Additional clothing costs: for an individual doing clerical work, \$5.70; for an individual doing manual work, \$3.60; for persons enrolled in a remedial education or vocational training course, the actual cost of uniforms and/or special clothing;

(e) The cost of child care necessary to employment if not provided without cost or as departmental service. The actual expense shall be deducted but not to exceed standard in WAC 388-16-215. [Order 1067, § 388-93-040, filed 11/17/75; Order 996, § 388-93-040, filed 12/31/74.]

**WAC 388-93-045 Monthly maintenance standard—Individual living in own home.** (1) The following monthly standards of available income for maintenance in dollar amounts shall apply when determining financial eligibility.

FAMILY STANDARD SIZE	STANDARD	FAMILY STANDARD SIZE	STANDARD
1	\$195	10	\$591
2	237	11	635
3	282	12	679
4	327	13	723
5	371	14	768
6	415	15	812
7	459	16	856
8	503	17	900
9	547	18	944

(2) \$44 shall be added for each additional member. [Order 996, § 388-93-045, filed 12/31/74.]

**WAC 388-93-050 Monthly maintenance standard—Individual in institution.** (1) The monthly standard for clothing and personal maintenance for an individual in a skilled nursing facility or general hospital shall be \$25.

(2) The monthly standard for clothing and personal maintenance for an individual in an intermediate care facility shall be \$27.30. [Order 996, § 388-93-050, filed 12/31/74.]

**WAC 388-93-055 Allocation of available income and nonexempt resources.** (1) The individual's available income determined according to WAC 388-93-040 and nonexempt resources determined according to WAC 388-93-060 and 388-93-065 shall be allocated for the purposes and in the order specified in this section.

(2) Maintenance needs of the individual living in his own home, or of legal dependents living in the family home if the individual is in an institution;

(a) The maintenance standards in WAC 388-93-045 shall apply unless the legal dependents are applying for or receive public assistance when the appropriate grant standards shall apply.

(3) Maintenance needs according to WAC 388-93-050 for an individual in an institution;

(4) Supplementary medical insurance premiums for an individual not in a nursing home who is eligible for medicare during the month of authorization and the month following if not withheld from the RDSI or RR benefit (see WAC 388-81-060);

(5) Health and accident insurance premiums for policies continued in force from time of application;

(6) Costs not covered under this program for medical or remedial care as determined necessary by eligible providers according to WAC 388-87-005(2)(a) and (h) initiated during a period of certification. (See WAC 388-91-016(1)(a)).

(7) Participation in cost of care provided under this program except as provided in subsection (8); however, participation may not exceed:

(a) The excess regular income multiplied by six or the anticipated excess income that will be available within a six-month period, whichever is greater,

(b) The resources in excess of those listed in WAC 388-28-430(2)(a) - (see WAC 388-93-060),

(c) Additional cash resources that come into possession of the individual during a period of certification.

(8) The twenty percent increase in social security benefits shall be considered exempt income when determining eligibility and participation for persons who in August 1972 received OAA, AFDC, AB or DA and also received RDSI benefits and who became ineligible for OAA, AFDC, AB or DA solely because of the twenty percent increase in social security benefits under Public Law 92-366. [Order 1061, § 388-93-055, filed 10/8/75; Order 996, § 388-93-055, filed 12/31/74.]

**WAC 388-93-060 Exempt resources.** In determining the eligibility of the grandfathered recipient of federal aid medical care only, the rules for exempt resources in WAC 388-28-420, 388-28-430, and 388-

28-580 shall apply. When separate property is a consideration, see WAC 388-28-365 and 388-28-370. [Order 996, § 388-93-060, filed 12/31/74.]

**WAC 388-93-065 Nonexempt resources.** (1) All resources not specifically exempted in WAC 388-93-060 shall be considered available for medical and nonmedical needs following priorities set forth in WAC 388-93-045 through 388-93-055. Value shall be assigned resources according to WAC 388-28-450 and 388-28-455.

(2) The possession of a nonexempt resource affects eligibility for medical care. Except for nonexempt real property, the value assigned to such resources shall be the "fair market value". The "fair market value" of the resource is considered available toward the cost of medical care. Such amount is considered at the time of each review for as long as the resource is possessed by the applicant. See WAC 388-85-020.

(3) In assigning value to nonexempt real property as described in WAC 388-28-055 for sequence followed shall be:

(a) First consideration shall be given to the sale of nonexempt real property based on the "quick sale value".

(b) If sale is not possible, rental or lease must be considered with the income derived from such rental or lease being considered available to meet the cost of medical care.

(c) If the property cannot be sold, rented, or leased and if the applicant has used reasonable diligence in seeking a purchaser, renter, or leasee, then no resource value for this property shall be considered to exist for the purpose of determining eligibility. The property shall remain on the market for as long as the applicant is certified for medical care.

(4) An application for medical assistance from a person who refuses to dispose of his property or refuses to attempt to dispose of his property as provided in subsection (2)(a), (b) and (c) shall be denied. [Order 996, § 388-93-065, filed 12/31/74.]

**WAC 388-93-070 Transfer of resources within two years prior to application.** (1) An applicant who transfers any resource within two years immediately prior to the date of application (or during the application period) without having received adequate consideration for such property shall be deemed to have a nonexempt resource available to meet his medical needs.

(2) The amount considered available to meet medical need shall be the difference between the reasonable value of the consideration received for the transferred property and the reasonable value of the property transferred. In determining this amount the rules in WAC 388-26-220 and 388-26-225 shall be considered.

(3) The applicant is ineligible if the amount considered available exceeds medical need according to WAC 388-84-020. If eligible with participation, see WAC 388-83-045. [Order 996, § 388-93-070, filed 12/31/74.]

**WAC 388-93-075 Continuing certification.** (1) A grandfathered recipient who continues to meet requirements of WAC 388-93-015, 388-93-045, 388-93-060, 388-93-065 and 388-93-070 may be recertified for medical assistance.

(2) A grandfathered recipient who does not continue to meet requirements in subsection (1) shall be terminated. See WAC 388-93-080. [Order 996, § 388-93-075, filed 12/31/74.]

**WAC 388-93-080 Application following termination of eligibility.** The eligibility of an individual applying for federal aid medical care only after termination of his eligibility as a grandfathered recipient shall be determined according to chapter 388-92 WAC. [Order 996, § 388-93-080, filed 12/31/74.]

### Chapter 388-95 WAC

#### MENTAL INSTITUTIONS—AGE—MEDICAL ASSISTANCE—ELIGIBILITY.

##### WAC

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**WAC 388-95-005 Definitions.** (1) "Admission notification" - The MHSR provides the hospital and local office with written notification that an eligible patient has been admitted.

(2) "Alternate care" - Care outside the psychiatric hospital, such as care in own or relative's home with necessary home services, foster family home, nursing home, or other social care facility.

(3) "Benefit" - Amount received from supplemental security income, administered by social security administration.

(4) "Case record" - The case records used in administering the program including:

- (a) Local office case record
- (b) Hospital medical record

(c) Mental health services representative's case record at the hospital.

(5) "Chief of social services" – Supervisor of a department of social services of the hospital.

(6) "Clinical staff" – Staff located at the hospital, including representation from medical, psychiatric and social services staff and the DSHS MHSR.

(7) "Clinical staff review" – Review by clinical staff for the purpose of evaluating the progress of the patient/recipient and developing treatment and/or release plans.

(a) "Initial review" – an interdisciplinary staff review

(i) For persons 65 or over, made within 30 days of admission to the hospital or after attaining age 65, or within 30 days of referral for application for Title XIX medical assistance.

(ii) For persons under 21, made within fourteen days after admission to hospital.

(b) "Periodic Review" – Made every thirty days or more often following initial review of person under 21 years of age.

(c) "Quarterly review" – Made every ninety days or more often following initial review for person 65 or over.

(8) "County of Residence" – Local office where the case is in active status.

(9) "Facility" – see "Hospital".

(10) "Formal referral" – A formal request for Title XIX coverage made by the hospital in behalf of the patient 65 or over.

(11) "Hospital" – A mental or psychiatric institution or hospital approved for the provision of inpatient psychiatric care to recipients 65 years of age or older and those under 21 years of age.

(12) "Hospital daily population report" – Official hospital report on patient movement which serves as the individual notification of patient admission and discharge.

(13) "Legal dependents" – Spouse and minor children living in the family home for whom the patient is financially responsible.

(14) "Legal status of patient" –

(a) Voluntary admission – Patient admitted voluntarily by self, parents, or guardian.

(b) 72-Hour evaluation and treatment – Patient admitted for evaluation and treatment by court order activated by the mental health professional.

(c) Involuntary admission – Patient committed by court order for a specified treatment period of 14 days, 90 days, or 180 days.

(d) Observation – Patient admitted by court order for a specified period of observation for determination of mental illness.

(15) "Local office hospital unit" – Service workers assigned by the local office in the county in which the hospital is located to take applications and interview patient-applicants and recipients regardless of their county of residence.

(16) "Local office service workers" – Social service workers in a local office assigned service cases of patient/recipients.

(17) "Medical assistance" – As used in this chapter means essential medical care, including psychiatric services, for chronic, emergent, and acute conditions furnished to needy persons sixty-five years of age or over or under age 21 in a facility.

(18) "Mental health professional" – A professional person designated by the county's administrative mental health body and charged with the responsibility to investigate and evaluate the presence of mental illness.

(19) "Mental Health Services Representative" (MHSR) – Employee of the health services division, office of medical assistance, stationed in the hospital who is responsible for working directly with the hospital and local office staff in the development of individual treatment plans for patient/recipients.

(20) "Patient" – Individual who is the responsibility of the hospital only.

(21) "Patient/recipient" – Individual in the hospital who is the joint responsibility of the divisions of community services, health services, and management and budget services.

(22) "Psychiatric facility" – A JCAH approved psychiatric hospital treating persons for mental diseases.

(23) "Psychiatric hospital social worker" – Social worker employed by the hospital.

(24) "Recipient" – As used in this chapter is

(a) Any individual age sixty-five years or older who has been determined eligible for service under Title XIX, assistance to aged individuals in institutions for mental diseases, and

(b) an AFDC recipient under 18 years of age or SSI beneficiary under 21 years of age (except that if receiving services prior to 21st birthday may be continued eligible until 22nd birthday).

(25) "Sixty caseload" – Special caseload for service to recipients age 65 or over who have been released from a facility and for service to such other aged recipients in need of alternate care services in the community.

(26) Social care facilities – Group homes providing personal care services.

(27) "Time-Limited visit" – A time-limited leave granted by the hospital to enable a patient/recipient to visit the community, usually his family. Return to the facility is expected by a specified time.

(28) Types of releases from state mental institutions.

(a) "Discharge" –

(i) The legal procedure which terminates a legal commitment to a mental hospital or a court order for observation.

(ii) The release from treatment of the voluntary patient.

(b) "Conditional release" – When in the professional opinion of the hospital staff the person can be appropriately served by out-patient care prior to expiration of the period of commitment, the outpatient care can be required as a condition for early release. The period of conditional release, when added to an in-patient treatment period, cannot exceed the period of commitment. The out-patient facility designated to provide out-patient care must agree in writing to assume such responsibility. [Order 1233, § 388-95-005, filed 8/31/77; Order 1044, § 388-95-005, filed 8/14/75.]

**WAC 388-95-010 Eligibility for aged person.** (1) The department shall provide medical care within the limitations set forth in these rules and regulations to any individual residing in a hospital who has been certified to receive medical assistance under conditions specified in subsection (2).

(2) The individual shall

(a) Be sixty-five years of age or older;

(b) Be a resident of the state of Washington - no durational requirement;

(c) Be in a hospital after voluntary or involuntary admission;

(d) Not have transferred property contrary to law or to WAC 388-26-200 through 388-26-250;

(e) Be financially eligible according to chapter 388-92 WAC including consideration of individual's

(i) Needs according to the institutional monthly maintenance standard in WAC 388-92-035;

(ii) Medical care requirements -

(A) Monthly charge for care in the facility,

(B) Deductible for Part A medicare, less any part already paid during the current spell of illness,

(C) Deductible for Part B medicare, less any part already paid during the current calendar year;

(D) Health and accident insurance premium payments, other payments for medical care not provided by the department, and payments being made for medical costs incurred within three months prior to date of application.

(iii) Monthly maintenance requirements of the applicant's legal dependents according to WAC 388-92-030.

(3) An applicant determined to be eligible shall be informed by means of an award letter of the action taken by the department and the amount of participation, if any. The award letter shall be sent to the mental health services representative.

(4) If the nonexempt resources and income of the applicant, excluding medicare benefits available, will meet the needs listed in subdivision (2)(e), for a period of two months or more following the date of admission, the applicant is ineligible and the application shall be denied. The applicant shall be notified in writing of the reason and informed of the right to a fair hearing. The mental health service representative shall be provided with the letter of denial to the patient.

(5) If the nonexempt resources and income of the applicant, including medicare benefits available, will not meet these needs for a period of two months, then the applicant is financially eligible. [Order 1044, § 388-95-010, filed 8/14/75.]

**WAC 388-95-025 Notification and application process.** (1) The facility shall notify the MHSR of the daily admission of any potential patient/recipient sixty-five years of age or older, of aged patients in the facility whose private funds are depleted, or of the attainment of age sixty-five by any patient residing in the facility, in need of medical assistance. If application is made after the sixty-fifth birthday, retroactive certification up to three months would apply, but not for any period prior to the 65th birthday.

(2) The patient's name submitted to the MHSR by the facility constitutes notification, and shall be processed in accordance with WAC 388-92-020. The MHSR shall send the notification to the local office of the patient's county of residence which shall be responsible for processing the application for medical assistance under this program. Applications for money benefits shall be referred to the nearest social security administration office.

(3) Disposition of the application shall be according to WAC 388-92-020(4).

(4) Decision on an application shall be made on a timely basis as stated in WAC 388-92-020(3)(a). [Order 1044, § 388-95-025, filed 8/14/75.]

**WAC 388-95-030 Certification of eligibility.** Eligibility shall be certified according to WAC 388-92-060(1)(b). All subsequent information from the facility relating to the case shall be transmitted by the mental health services representative to the local office of residence. [Order 1044, § 388-95-030, filed 8/14/75.]

**WAC 388-95-035 Effective date of authorization.** The effective date of authorization shall be the first day of the month of application. [Order 1044, § 388-95-035, filed 8/14/75.]

**WAC 388-95-040 Duration of certification.** Medical assistance to aged individuals in mental hospitals shall be certified for a period of not more than twelve months (WAC 388-92-060(1)(b)). A shorter certification period may be authorized when the probability of a change in the medical needs or financial circumstances of the recipient seems to justify such action. Review of eligibility shall be according to WAC 388-92-060(2). [Order 1044, § 388-95-040, filed 8/14/75.]

**WAC 388-95-045 Medical consultant approval for hospitalization or medical care—When required.** (1) The medical consultant's approval is not required for admittance or readmittance to the facility.

(2) The medical consultant's approval shall be required for medical care not included in the agreement with the facility for an individual who has exhausted his benefits under medicare. [Order 1044, § 388-95-045, filed 8/14/75.]

**WAC 388-95-050 Time-limited visit.** Therapeutic time-limited visits of not less than ten days nor more than 30 (unless extended by re-evaluation) days are applicable to the aged individual. [Order 1044, § 388-95-050, filed 8/14/75.]

**WAC 388-95-055 Department responsibilities for patient/recipient entering psychiatric facility.** (1) When a recipient enters a facility, all pertinent medical and social information about the individual in the department record shall be supplied without delay to the MHSR at the facility. "Pertinent medical and social information" means information that will aid joint planning within the department for the best treatment

and/or release plans for a patient/recipient. This may include

- (a) Medical reports from patient's physician(s),
- (b) Recent contacts with the patient/recipient family yielding information which might influence planning for the patient/recipient,
- (c) Other information deemed important by the department and requested by MHSR at the facility such as presenting behavior prior to admission to care.

(2) A mental health services representative is stationed at each facility and has liaison responsibility between the facility and the local office.

(3) The local office of residence shall determine the eligibility of the applicant and the patient/recipient referred by the mental health services representative. The local office where the facility is located will determine the eligibility for individuals without other county of residence and will assist the local office of residence upon request. [Order 1044, § 388-95-055, filed 8/14/75.]

**WAC 388-95-060 Services to patient/recipient in psychiatric facility.** (1) The social service staff of the facility shall provide social services to the patient/recipient as part of the treatment plan while he is in the facility.

(2) The patient/recipient shall be entitled to the same scope and content of medical care for nonpsychiatric disorders as other recipients of medical assistance. See WAC 388-86-005 through 388-86-120.

(3) Joint planning and assessment by the facility staff and MHSR shall begin at time of admission. Planning and reassessment of the care, treatment, and progress of each patient/recipient shall take place at intervals not to exceed three months. [Order 1044, § 388-95-060, filed 8/14/75.]

**WAC 388-95-065 Coordination of services for patient/recipient.** (1) The facility has responsibility for providing initial and current medical examinations, psychiatric evaluations and social summary of each patient/recipient within thirty days of his referral to the program.

(2) The local office has the responsibility to provide the facility with social information and to assist in release planning. [Order 1044, § 388-95-065, filed 8/14/75.]

**WAC 388-95-070 Department responsibilities—Patient/recipient scheduled for release.** (1) A patient/recipient shall be released to alternate care only on the basis of joint planning and agreement between the staffs of the various divisions within the department. The release plan shall include a recommendation for the kind of alternate care needed by the patient/recipient. The facility shall furnish the MHSR with information pertinent to the patient/recipient's potential adjustment to alternate care.

(2) When the decision has been made that the patient/recipient may leave the facility, the MHSR notifies the local office maintaining the case and forwards the facility referral material. The local office shall

transfer the case to a service (60) case load and complete plans for the patient/recipient's return to the community. [Order 1044, § 388-95-070, filed 8/14/75.]

**WAC 388-95-075 Local office responsibility for social services.** (1) The local office shall assume primary responsibility for providing social services to the aged recipient released from a mental facility. The need for financial assistance is not a prerequisite for providing social services.

(2) The following prescribed services shall be provided:

Casework, counseling, and other services to assist the recipient in his understanding of, and ability to carry out the facility's recommendations for continued needed care and services regardless of whether he is receiving financial assistance. Although the frequency of contact will vary depending upon the care provided, less than one contact per month shall be justified in the case record on the basis of the recipient's need for supportive casework. In seeking a supportive services relationship in behalf of the individual, the service worker shall

(a) Secure and use appropriately such services and resources available from the alternate care facility or the community as prescribed by the individual case plan,

(b) Seek to develop and/or maintain the recipient's family and community ties and to encourage his participation,

(c) Secure needed medical care, including assistance in locating a physician and obtaining drugs. For former hospital patients, see WAC 388-91-016(2) concerning drug and pharmaceutical supplies. The service worker shall inform the recipient's personal physician of this rule.

(3) All appropriate measures shall be taken to prevent the necessity of hospitalization of a recipient in a facility for mental illness.

(4) When social services are not being provided or have been discontinued, the case record must contain fully documented reasons, such as client refusal or inability to use social services or no further need for social services. [Order 1044, § 388-95-075, filed 8/14/75.]

**WAC 388-95-080 Payment for care.** (1) The department shall pay the facility for medical care provided to a patient/recipient certified as eligible under this program.

(a) Medical care services provided to a patient/recipient within or outside the facility shall be the responsibility of the facility until the patient/recipient is released. Claim for payment shall be on forms provided by the department.

(b) Leaves of absence, temporary visits, and unauthorized absences for periods exceeding twenty-four hours shall not be counted as inpatient days and shall not be billed. It is not necessary to submit a new admission and billing each time the patient is absent twenty-four hours or more. The facility may bill on a monthly basis for covered days, excluding the days absent.

(2) Payment for medical care shall be according to chapter 388-87 WAC. [Order 1044, § 388-95-080, filed 8/14/75.]

**WAC 388-95-210 Eligibility for person under age 21.** (1) The department shall provide for inpatient psychiatric care within the limitations set forth in these rules and regulations to any individual who is a patient in a JCAH approved psychiatric hospital and who has been certified to receive medical assistance (MA) under conditions specified in subsection (2).

(2) The individual shall be:

(a) Under age 21 (except that if receiving services just prior to 21st birthday, eligibility may continue until age 22) and an

(b) AFDC recipient or

(c) SSI beneficiary.

(3) Any patient whose status upon admission involves a legal procedure other than civil commitment is not eligible. [Order 1044, § 388-95-210, filed 8/14/75.]

**WAC 388-95-215 Scope of care.** Medical assistance coverage includes:

(1) Daily and ancillary charges for care in the hospital,

(2) Deductible for Part A medicare, less any part already paid during the current spell of illness,

(3) Coinsurance for Part B medicare, less any part already paid during the current calendar year.

(4) Medical assistance (MA) to an eligible AFDC patient/recipient shall be for 90 days without a change in the family grant. (See WAC 388-24-125(3)(b)(ii)).

(5) If hospitalization would be necessary for more than 90 days, the child shall be included in the grant for clothing, personal maintenance and incidental allowance only. (See WAC 388-34-125(1)).

(6) If AFDC status is terminated because of increased earnings of parent or increased hours of employment, the patient/recipient shall remain eligible for a period of four months. (See WAC 388-83-027(5)). [Order 1044, § 388-95-215, filed 8/14/75.]

**WAC 388-95-225 Notification process.** (1) The hospital shall promptly notify mental health services representative of admission of the patient by means of hospital daily population report or other administrative processes.

(2) MHSR will determine if the patient is an AFDC recipient or SSI beneficiary and obtain written confirmation from the local office of residence.

(3) MHSR will notify the hospital and appropriate DSHS offices in writing when an eligible Title XIX recipient is admitted. [Order 1044, § 388-95-225, filed 8/14/75.]

**WAC 388-95-235 Effective date of Title XIX coverage.** The effective date shall be the date of admission to the hospital. [Order 1044, § 388-95-235, filed 8/14/75.]

**WAC 388-95-250 Therapeutic visit.** Therapeutic time-limited visits of not less than ten days nor more than 30 (unless extended by re-evaluation) days are applicable to the 18 through 20 year old age group. [Order 1044, § 388-95-250, filed 8/14/75.]

**WAC 388-95-255 Department responsibility—**

**Admission.** (1) When a recipient enters a hospital, all pertinent medical and social information about the individual in the department record shall be supplied without delay to the MHSR at the hospital. "Pertinent medical and social information" means information that will aid joint planning within the department for the best treatment and/or release plans for a patient/recipient. This may include:

(a) Copies of social assessment from record.

(b) Medical reports from patient's physician(s).

(c) Recent contacts with the patient/recipient family yielding information which might influence planning for the patient/recipient.

(d) Other information deemed important by the department and requested by MHSR at the hospital such as presenting behavior prior to admission to care.

(2) A MHSR is stationed at each hospital and has liaison responsibility between the hospital and the local office.

(3) The local office in the county of residence of the AFDC or SSI recipient shall be responsible for service to the client. [Order 1044, § 388-95-255, filed 8/14/75.]

**WAC 388-95-260 Services in hospital.** (1) The social service staff of the hospital shall provide social services to the patient/recipient as part of the treatment plan while he is in the hospital.

(2) The patient/recipient shall be entitled to full scope care only for the period of time when he is under active treatment for the condition for which he was hospitalized.

(3) Joint planning and assessment by the hospital staff and MHSR shall begin at time of admission. Planning and reassessment of the care, treatment and progress of each patient/recipient shall take place at intervals not to exceed thirty days. [Order 1044, § 388-95-260, filed 8/14/75.]

**WAC 388-95-265 Coordination of services.** (1) The hospital has responsibility for providing initial and current medical examinations, psychiatric evaluations, individual treatment plans, and social summary of each patient/recipient to the MHSR within 14 days of admission.

(2) Copies of reviews will be furnished local office by MHSR. [Order 1044, § 388-95-265, filed 8/14/75.]

**WAC 388-95-270 Department responsibilities—**

**Release.** (1) A patient/recipient shall be released to alternate care only on the basis of joint planning and agreement between the staff of various divisions within the department.

(2) There shall be a discharge planning review to evaluate the patient/recipient's readiness for release.

(3) The release plan shall include a recommendation for the kind of alternate care needed by the patient/recipient, recommendations as relates to the residual problems, and recommendations for follow-up services to assure continuity of care.

(4) When the decision has been made that the patient/recipient may leave the hospital, the MHSR

notifies the local office maintaining the case and forwards the referral material.

(5) There shall be a post-hospital review held at the hospital (within 7 days) for those patient/recipients who leave against medical advice. Necessary referral material will be furnished to the MHSR. [Order 1044, § 388-95-270, filed 8/14/75.]

**WAC 388-95-275 Supportive social service by local office.** (1) The local office shall assume primary responsibility for providing social services to the under 21 recipient after discharge from the hospital. The need for financial assistance is not a prerequisite for providing social services. The local office has the responsibility to provide direct services when feasible or be responsible for procuring and coordinating the use of other community services such as: mental health centers, juvenile court, group homes, education and training, etc.

(2) Continuity of care is essential although the frequency of contact will vary depending upon the care provided and the needs of the individual.

(3) In providing supportive services, the service worker shall:

(a) Include casework, counseling and other services to assist the individual in understanding of, and ability to carry out the hospital's recommendations for follow-up services.

(b) Seek to develop and/or maintain the recipient's family and community ties and to encourage individual participation.

(c) Secure needed medical care, including assistance in locating a physician and obtaining medication. See WAC 388-91-016(2) concerning drug and pharmaceutical supplies for discharged patients.

(4) All available necessary services shall be provided in order to prevent the recipient's readmission to a psychiatric hospital.

(5) When social services are not being provided, the case record must contain fully documented reasons such as: client refusal, inability to use services, or services being provided by another agency, or no further need for services. [Order 1044, § 388-95-275, filed 8/14/75.]

**WAC 388-95-280 Conditions for payment.** (1) The department shall pay for medical care provided to a patient/recipient certified as eligible under this program.

(a) Medical care services provided to a patient/recipient within the psychiatric hospital shall be the responsibility of the hospital until the patient/recipient is discharged. Claim for payment shall be on forms provided by the department.

(b) Leaves of absence, temporary visits, and unauthorized absences for periods exceeding twenty-four hours shall not be counted as in-patient days and shall not be billed. It is not necessary to submit a new admission and billing each time the patient is absent twenty-four hours or more. The hospital may bill on a monthly basis for covered days, excluding the days absent.

(2) Payment for medical care shall be according to chapter 388-87 WAC. [Order 1044, § 388-95-280, filed 8/14/75.]

## Chapter 388-96 WAC NURSING HOME ACCOUNTING AND REIMBURSEMENT SYSTEM

### WAC

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- DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**
- 388-96-100 Standards for funding patient care services in skilled nursing/intermediate care facilities. [Order 1168, § 388-96-100, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-103 Skilled nursing care patients. [Order 1168, § 388-96-103, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.
- 388-96-106 Minimum licensed personnel requirements for skilled nursing facilities. [Order 1168, § 388-96-106, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.
- 388-96-109 Intermediate care facility patients. [Order 1168, § 388-96-109, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.
- 388-96-112 Minimum licensed personnel requirements for intermediate care facilities. [Order 1168, § 388-96-112, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.
- 388-96-116 Provider classification. [Order 1169, § 388-96-116, filed 11/10/76.] Repealed by Order 1257, filed 12/21/77.
- 388-96-118 Exception to dual contract. [Order 1168, § 388-96-118, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.
- 388-96-200 Condition of qualification for participation in the Washington state cost-related reimbursement system. [Order 1168, § 388-96-200, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-203 Initial financial survey report and budgetary report for new providers. [Order 1168, § 388-96-203, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-206 Prospective daily payment. [Order 1168, § 388-96-206, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-209 Flat rate payment system option. [Order 1168, § 388-96-209, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-300 Required reports. [Order 1205, § 388-96-300, filed 4/13/77; Order 1114, § 388-96-300, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-302 Report dates. [Order 1205, § 388-96-302, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-303 Uniform reporting forms. [Order 1169, § 388-96-303, filed 11/10/76; Order 1114, § 388-96-303, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-305 Approval required for extensions. [Order 1205, § 388-96-305, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-306 Short-period report procedure. [Order 1114, § 388-96-306, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-308 Late reports. [Order 1205, § 388-96-308, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-309 Incorrect or false report. [Order 1114, § 388-96-309, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-311 Forms. [Order 1205, § 388-96-311, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-312 Amended annual or semiannual report. [Order 1114, § 388-96-312, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-314 Completion of reports. [Order 1205, § 388-96-314, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-315 Flat rate option for providers (flat rate system). [Order 1114, § 388-96-315, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-317 Certification of reports. [Order 1205, § 388-96-317, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-318 Reporting requirements. [Order 1114, § 388-96-318, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-320 False reports. [Order 1205, § 388-96-320, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-321 Extensions. [Order 1114, § 388-96-321, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-323 Amendments. [Order 1205, § 388-96-323, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-324 Delinquent semiannual or annual reports. [Order 1114, § 388-96-324, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-325 Abbreviated reporting period. [Order 1205, § 388-96-325, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-326 Retention of records. [Order 1205, § 388-96-326, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-327 Determination of prospective daily payment rate. [Order 1114, § 388-96-327, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-330 Rate adjustments and payments. [Order 1114, § 388-96-330, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-333 Annual report settlement. [Order 1114, § 388-96-333, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-336 Contested annual settlement. [Order 1114, § 388-96-336, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-339 Final settlement date. [Order 1114, § 388-96-339, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-342 Uniform system of accounting and reporting. [Order 1169, § 388-96-342, filed 11/10/76; Order 1114, § 388-96-342, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-345 Uniform statistical reporting. [Order 1114, § 388-96-345, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-348 Method of accounting. [Order 1114, § 388-96-348, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-351 Nursing home reports. [Order 1239, § 388-96-351, filed 8/23/77; Order 1205, § 388-96-351, filed 4/13/77; Order 1114, § 388-96-351, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-354 Final settlement report. [Order 1114, § 388-96-354, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-357 Provider records. [Order 1114, § 388-96-357, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-360 Audits by the department. [Order 1114, § 388-96-360, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-363 Report certification. [Order 1114, § 388-96-363, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-387 Illustration of final settlement form. [Order 1114, § 388-96-387, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-400 The prospective cost-related reimbursement system. [Order 1168, § 388-96-400, filed 11/3/76; Order 1114, § 388-96-400, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-403 Control areas and associated cost centers. [Order 1168, § 388-96-403, filed 11/3/76; Order 1114, § 388-96-403, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-406 Payment of the actual allowable costs by cost center. [Order 1168, § 388-96-406, filed 11/3/76; Order 1114, § 388-96-406, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.



- 388-96-409 Discretionary allowance. [Order 1114, § 388-96-409, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-412 Expense allocation procedures. [Order 1114, § 388-96-412, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-415 Expense identification. [Order 1114, § 388-96-415, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-418 Expense recoveries and adjustments. [Order 1114, § 388-96-418, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-421 Allocation of expenses. [Order 1114, § 388-96-421, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-424 Multi-facility provider. [Order 1114, § 388-96-424, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-427 Uniform system of accounting. [Order 1114, § 388-96-427, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-430 Separate and distinct SNF and/or ICF. [Order 1114, § 388-96-430, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-433 Combined multi-facility. [Order 1114, § 388-96-433, 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-436 Prospective cost reimbursement for combined multi-facility. [Order 1114, § 388-96-436, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-439 Payment of the lower of actual costs or prospective per diem rates. [Order 1114, § 388-96-439, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-442 Multi-facility flat rate option for providers (flat rate system). [Order 1114, § 388-96-442, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-445 Medical recipient rates. [Order 1114, § 388-96-445, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-448 Medical recipient rates by level of care. [Order 1114, § 388-96-448, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-451 Prospective daily payment rate. [Order 1114, § 388-96-451, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-454 Prospective rate—Inadequate data. [Order 1114, § 388-96-454, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-457 Prospective rate revision. [Order 1114, § 388-96-457, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-458 Prospective rate—Projected (budgeted) cost increases. [Order 1114, § 388-96-458, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-460 Prospective rate—New facility. [Order 1114, § 388-96-460, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-463 Prospective rate—Change in ownership—New provider. [Order 1114, § 388-96-463, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-466 Prospective rate—Change in ownership—Nonarmslength transaction. [Order 1114, § 388-96-466, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-470 Prospective rate—Change in ownership—Armslength transaction. [Order 1114, § 388-96-470, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-473 Final daily settlement rate. [Order 1114, § 388-96-473, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-476 Notification of prospective and final rates. [Order 1114, § 388-96-476, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-479 Adjustments, errors, or omissions. [Order 1114, § 388-96-479, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-500 Provider billing instructions—Nursing home statement. [Order 1114, § 388-96-500, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-510 Billing period. [Order 1114, § 388-96-510, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-520 Suspension of reimbursement formula. [Order 1114, § 388-96-520, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-600 Reasonable costs. [Order 1114, § 388-96-600, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-602 Substance of recoverable cost transactions. [Order 1114, § 388-96-602, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-604 Costs due to changes imposed by regulatory agencies. [Order 1114, § 388-96-604, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-606 Nonreimbursable services and expenses. [Order 1114, § 388-96-606, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-608 Recovery of expenses. [Order 1114, § 388-96-608, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-610 Physical property. [Order 1114, § 388-96-610, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-612 Depreciation. [Order 1114, § 388-96-612, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-614 Historical cost depreciation for new providers and for depreciable assets purchased subsequent to July 1, 1974. [Order 1114, § 388-96-614, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-616 Election of depreciation method for depreciable assets purchased prior to July 1, 1974, by providers entering cost reimbursement at its inception. [Order 1169, § 388-96-616, filed 11/10/76; Order 1114, § 388-96-616, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-618 Guideline lives and methods of depreciation. [Order 1114, § 388-96-618, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-620 Disposal of depreciable assets. [Order 1114, § 388-96-620, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-622 Gains or losses on disposition of major-minor equipment. [Order 1114, § 388-96-622, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-624 Historical cost trade-ins. [Order 1114, § 388-96-624, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-626 Purchase of facility as an ongoing operations. [Order 1114, § 388-96-626, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-628 Partial change of ownership interest. [Order 1114, § 388-96-628, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-630 Donated assets. [Order 1114, § 388-96-630, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-632 Capitalization vs. expense. [Order 1114, § 388-96-632, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-634 Construction in process. [Order 1114, § 388-96-634, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-636 Amortization expense of leasehold improvements. [Order 1114, § 388-96-636, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-638 Leased facilities and equipment. [Order 1114, § 388-96-638, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-640 Interest expense. [Order 1114, § 388-96-640, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-642 Interest rate. [Order 1114, § 388-96-642, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-644 Recovery of interest income. [Order 1114, § 388-96-644, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

- 388-96-646 Interest expense—Related organization. [Order 1114, § 388-96-646, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-648 Construction interest expense. [Order 1114, § 388-96-648, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-650 In-service educational activities. [Order 1114, § 388-96-650, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-652 Owner-administrator compensation and/or allowances. [Order 1114, § 388-96-652, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-654 Relatives of owner compensation and/or allowances. [Order 1114, § 388-96-654, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-656 Owner-administrator of multiple facilities (groups). [Order 1114, § 388-96-656, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-658 Owner allowances. [Order 1114, § 388-96-658, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-660 Preopening expenses. [Order 1114, § 388-96-660, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-662 Discretionary allowance. [Order 1114, § 388-96-662, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-664 Costs of related organization. [Order 1114, § 388-96-664, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-666 Rentals or leases from related organization. [Order 1114, § 388-96-666, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-668 Service charges from related organization. [Order 1114, § 388-96-668, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-700 Appeals [Order 1114, § 388-96-700, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-900 Definitions. [Order 1169, § 388-96-900, filed 11/10/76.] Repealed by Order 1262, filed 12/30/77.

**WAC 388-96-010 Terms.** Unless the context clearly requires otherwise, the following terms shall have the meaning set forth below when used in this chapter.

"Accrual method of accounting" – A method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

"Allowable costs" – See WAC 388-96-501.

"Arms-length transaction" – A transaction resulting from good-faith bargaining between a buyer and seller who are unrelated and have adverse bargaining positions in the market place.

"Assets" – Economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. They also include certain deferred charges which are not resources but which are recognized and measured in accordance with generally accepted accounting principles.

"Bad debts" – Amounts considered to be uncollectable from accounts and notes receivable.

"Beds" – Unless otherwise specified, the number of set-up beds in the nursing home.

"Capitalization" – The process of recording and carrying forward into one or more future periods an expenditure the benefits or proceeds from which will then be enjoyed.

"Capitalized lease" – A lease which is required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

"Cash method of accounting" – A method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for them.

"Change of ownership" – A change in the individual or legal organization which is responsible for the daily operation of a nursing home.

(1) Events which change ownership include but are not limited to the following:

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

(b) Title to the nursing home enterprise is transferred to another party;

(c) The nursing home enterprise is leased, or an existing lease is terminated;

(d) Where the owner is a partnership, any event occurs which dissolves the partnership;

(e) Where the owner is a corporation, it is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation.

(2) Ownership does not change when the following, without more, occur:

(a) A party contracts with the owner to manage the enterprise as the owner's agent, i.e., subject to the owner's general approval of daily operating decisions;

(b) If the owner is a corporation, some or all of its stock is transferred.

"Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

"Contract" – A contract between the department and a contractor for the delivery of SNF and/or ICF services to medical care recipients.

"Contractor" – An entity which contracts with the department to deliver SNF and/or ICF services to medical care recipients.

"Courtesy allowances" – Reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

"Department" – The department of social and health services (DSHS).

"Depreciation" – The systematic distribution of the cost or other base of a depreciable asset over its estimated useful life.

"Donated asset" – An asset which the contractor acquired without making any payment for it in the form of cash, property, or services. An asset is not a donated asset if the contractor made even a nominal payment in acquiring it. An asset purchased using donated funds is not a donated asset.

"Entity" – An individual or legal organization capable of entering enforceable contracts (e.g., corporation, partnership).

"ESSO" – The local economic and social service office of the department.

"Exceptional care recipient" – A medical care recipient determined by the department to require exceptional heavy care.

"Fair market value" – The price for which an asset would have been purchased on the date of acquisition in an arms-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell.

"Fiscal year" – The operating or business year of a contractor. All contractors report on the basis of a twelve month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods.

"Fixed asset" – A tangible asset with an historical cost in excess of one hundred fifty dollars and a useful life of more than one year.

"Generally accepted accounting principles" – Accounting principles currently approved by the American Institute of Certified Public Accountants.

"Goodwill" – The excess of the price paid for a business over the fair market value of all other identifiable, tangible and intangible assets acquired. Also, the excess of the price paid for an asset over its fair market value.

"Historical cost" – The actual cost incurred in acquiring and preparing a fixed asset for use. Historical cost includes such planning costs as feasibility studies, architects' fees, and engineering studies. It does not include "start-up costs" as defined in this section or construction interest (see WAC 388-96-543).

"ICF" – When referring to a nursing home, an intermediate care facility. When referring to a level of care, intermediate care. When referring to a patient, a patient requiring intermediate care.

"Imprest fund" – A fund which is regularly replenished in exactly the amount expended from it.

"Interest" – The cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

"Intermediate care facility" – A licensed facility certified to deliver intermediate care services to medical care recipients.

"Levels of care" – The classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.

"Medical care recipient" – A recipient of medical assistance under Title XIX of the Social Security Act or of state funded medical care services.

"Multiservice facility" – A facility at which two or more types of health or related care are delivered, e.g., a hospital and SNF and/or ICF, or a boarding home and SNF and/or ICF. A combined SNF/ICF is not considered a multiservice facility.

"Nonallowable costs" – Costs which do not meet every test of an allowable cost.

"Nonrestricted funds" – Funds which are not restricted to a specific use by the donor, e.g., general operating funds.

"Nursing home" – A home, place or institution, licensed in accordance with chapter 18.51 RCW, in which skilled nursing and/or intermediate care is delivered.

"Operating lease" – A lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

"Owner" – The individual or legal organization which is responsible for the daily operation of a nursing home. This party is legally responsible for operational decisions and liabilities.

"Patient day" – A calendar day of patient care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the patient was admitted on the same day. A patient is admitted for purposes of this definition when he or she is assigned a bed and a patient medical record is opened.

"Per diem (per patient day) costs" – Total allowable costs for a fiscal period divided by total patient days for the same period.

"Prospective daily payment rate" – The rate assigned by the department to a contractor for providing services to medical care recipients. The rate is used to compute the maximum participation of the department in the contractor's costs.

"Recipient" – A medical care recipient.

"Related organization" – An entity which, to a significant extent, is under common ownership and/or control with, or has control of or is controlled by, the contractor. An entity is deemed to "control" another entity if it has a five percent or greater ownership interest in the other, or if it has capacity, derived from any financial or other relationship, and whether or not exercised, to influence directly or indirectly the activities of the other.

"Relative" – Spouse; natural parent, child, or sibling; adopted child or adoptive parent; step-parent, step-child, step-brother, step-sister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law; grandparent or grandchild; uncle, aunt, nephew, niece or cousin.

"Restricted fund" – A fund the use of the principal and/or income of which is restricted by agreement with or direction by the donor to a specific purpose, in contrast to a fund over which the owner has complete control. These generally fall into three categories:

(1) Funds restricted by the donor to specific operating purposes;

(2) Funds restricted by the donor for additions to property, plant and equipment; and

(3) Endowment funds.

"Skilled nursing facility" – A licensed facility certified to deliver skilled nursing care services to medical care recipients.

"SNF" – When referring to a facility, a skilled nursing facility. When referring to a level of care, skilled nursing care. When referring to a patient, a patient requiring skilled nursing care.

"Start-up costs" – The one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. They do not include such costs as feasibility studies, engineering studies and architects' fees which are part of the historical cost of the facility.

"Uniform chart of accounts" – A list of account titles identified by code numbers established by the department for contractors to use in reporting their costs.

"Vendor number" – A number assigned to each contractor delivering SNF and/or ICF services to medical

care recipients. [Order 1262, § 388-96-010, filed 12/30/77.]

**WAC 388-96-020 Prospective cost-related reimbursement.** The prospective cost-related reimbursement system is the system used by the department to pay for skilled nursing facility services and intermediate care facility services provided to medical care recipients. Reimbursement rates for such services covering periods beginning on and after January 1, 1978, will be determined in accordance with the principles, methods and standards contained in this chapter. [Order 1262, § 388-96-020, filed 12/30/77.]

**WAC 388-96-023 Conditions of participation.** In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of a nursing home or multiservice facility shall:

(1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 C.F.R. where required. A certificate of need is required before commencement of a nursing home "construction" project (including acquisition) costing in excess of one hundred thousand dollars. Section 1122 approval is required for nursing home capital expenditures which (a) cost in excess of one hundred thousand dollars, (b) add or delete licensed beds, or (c) add or delete clinically related services;

(2) Hold the appropriate current license (e.g., nursing home license, hospital license);

(3) Hold current Title XIX certification to provide SNF and/or ICF services;

(4) Hold a current contract to provide SNF and/or ICF services; and

(5) Comply with all provisions of the contract and all applicable regulations, including but not limited to the provisions of this chapter and of chapter 388-88 WAC. [Order 1262, § 388-96-023, filed 12/30/77.]

**WAC 388-96-026 Projected budget for new contractors.** (1) Each new contractor shall submit a projected budget to the department at least sixty days before its contract will become effective. For purposes of this section, a "new contractor" is one which:

(a) Operates a new facility;

(b) Acquires or assumes responsibility for operating an existing facility;

(c) Enters the cost-related reimbursement system after providing service at the nursing home in the past, but either not under the program or receiving flat or class-rate reimbursement; or

(d) Obtains a certificate of need or section 1122 approval due to an addition to or renovation of a facility.

(2) The projected budget shall cover the twelve months immediately following the date the contractor will enter the program. It shall be prepared on forms and in accordance with instructions provided by the department. [Order 1262, § 388-96-026, filed 12/30/77.]

**WAC 388-96-029 Change of ownership.** (1) On the effective date of a change of ownership, as that term is defined in WAC 388-96-010, the department's contract with the old owner shall be terminated. The old owner shall give the department thirty days' written notice of such termination in accordance with the terms of the contract. When certificate of need and/or section 1122 approval is required for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need and/or section 1122 approval shall be obtained before the old owner submits a notice of termination.

(2) If the new owner desires to participate in the cost-related reimbursement system, it shall meet the conditions specified in WAC 388-96-023, and shall submit a projected budget in accordance with WAC 388-96-026 no later than sixty days before the date of the change of ownership. The nursing home contract with the new owner shall be effective as of the date of the change of ownership. [Order 1262, § 388-96-029, filed 12/30/77.]

**WAC 388-96-032 Termination of contract.** (1) When a nursing home contract is terminated for any reason, the old contractor shall submit final reports in accordance with WAC 388-96-125. Payment for care provided during the final thirty days of service under a contract will be held until the contractor has filed a properly completed final annual report, and final settlement has been determined.

(2) Following final settlement, a payment withheld pursuant to subsection (1) of this section will be sent to the contractor, after any overpayment determined in connection with final settlement has been deducted. If the contractor contests the settlement determination in accordance with WAC 388-96-904, the department will hold the amount in dispute pending completion of the appeal process, but will release the balance of such payment to the contractor.

(3) The department will release a payment which would be withheld pursuant to subsection (1) of this section, provided a bond issued by a reputable bonding company and acceptable to the department is filed by the contractor. The bond shall:

(a) be in an amount equal to the released payment;

(b) be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies;

(c) provide that the full amount of the bond shall be paid to the department if a properly completed final annual report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the department's auditors; and

(d) provide that an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond, shall be paid to the department in the event the contractor does not pay the refund within sixty days following receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

(4) If a contract is terminated solely in order for the same owner to contract with the department to deliver SNF or ICF services to a different class of medical care recipients at the same nursing home, the contractor is not required to submit final reports, and payment for the final thirty days will not be withheld.

(5) When a contract is terminated, any accumulated liabilities which are assumed by a new owner shall be reversed against the appropriate accounts by the contractor. [Order 1262, § 388-96-032, filed 12/30/77.]

**WAC 388-96-101 Reports.** (1) In order for a contractor to receive payments under the cost-related reimbursement system for providing care to medical care recipients, an annual report and a semiannual report based on the contractor's fiscal year, and four quarterly reports based on the calendar year, shall be submitted to the department.

(2) Each contractor shall submit an annual report covering the period from the beginning of its fiscal year in 1977 through December 31, 1977. For contractors with fiscal year-ends other than December 31, this report will replace an annual or semiannual report, in accordance with a revised schedule and instructions issued by the department.

(3) By December 31, 1979, each contractor's fiscal year for federal tax and cost reporting purposes shall coincide with the calendar year. [Order 1262, § 388-96-101, filed 12/30/77.]

**WAC 388-96-104 Due dates for reports.** (1) Quarterly reports shall be submitted within thirty days after the end of each calendar quarter.

(2) Semiannual reports shall be submitted within ninety days after the end of the sixth month of the contractor's fiscal year.

(3) Annual reports covering the complete fiscal year shall be submitted within ninety days after the end of the fiscal year. [Order 1262, § 388-96-104, filed 12/30/77.]

**WAC 388-96-107 Requests for extensions.** The department may grant a thirty day extension of time for filing a required report if a written request setting forth the reasons an extension is necessary is received prior to the expiration of the relevant time period. [Order 1262, § 388-96-107, filed 12/30/77.]

**WAC 388-96-110 Improperly completed or late reports.** If a required report is not properly completed (i.e., in balance and in the required detail) and received by the department within the relevant time period, including any approved extensions, all payments under the contract may be held by the department until the delinquent report is properly completed and received. [Order 1262, § 388-96-110, filed 12/30/77.]

**WAC 388-96-113 Completing reports and maintaining records.** (1) All reports shall be legible and reproducible. It is recommended that all entries be typed or in black ink.

(2) Reports shall be completed in accordance with instructions provided by the department. If no specific instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used, except that for governmental institutions operated on a cash method of accounting, data based on this method of accounting will be acceptable. All revenue and expense accruals shall be reversed against the appropriate accounts if they are not received or paid within one hundred twenty days after the accrual is made, unless special circumstances are documented which justify continuing to carry all or part of the accrual (e.g., contested billings). Accruals for vacation, holiday, sick pay and taxes may be carried for longer periods, provided the contractor's usual policy is followed.

(4) Methods of allocating costs shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multiservice facilities shall allocate costs using the methods specified by the department.

(5) The contractor's records relating to a nursing home shall be maintained so reported data can be audited for compliance with generally accepted accounting principles and the department's reimbursement principles and reporting instructions. These records shall be available for review by authorized personnel of the department and of the United States department of health, education and welfare during normal business hours at a location in the state of Washington specified by the contractor. [Order 1262, § 388-96-113, filed 12/30/77.]

**WAC 388-96-117 Certification requirement.** Each required report shall be accompanied by a certification signed on behalf of the contractor which was responsible to the department during the report period. If the contractor files a federal income tax return, the certification shall be executed by the person who normally signs this return. The certification shall also be signed by the licensed administrator of the nursing home. If the report is prepared by someone other than an employee of the contractor, a separate statement shall be included with the certification signed by the individual preparing the report and indicating his or her status with the contractor. [Order 1262, § 388-96-117, filed 12/30/77.]

**WAC 388-96-119 Reports—False information.** (1) If a contractor knowingly or with reason to know files a report containing false information, such action constitutes cause for termination of its contract with the department.

(2) Adjustments to reimbursement rates required because a false report was filed will be made in accordance with WAC 388-96-769.

(3) Contractors filing false reports may be referred for prosecution under applicable statutes. [Order 1262, § 388-96-119, filed 12/30/77.]

**WAC 388-96-122 Amendments to reports.** An amendment to an annual report shall be filed if significant errors or omissions are discovered prior to the commencement of the department's field audit. An amendment to a semiannual report shall be filed if significant errors or omissions are discovered prior to the end of the fiscal year. Errors or omissions shall be deemed "significant" if they would mean a net difference of two cents or more per patient day or one thousand dollars or more in reported costs, whichever is higher, in any cost area. To file an amendment, only those pages on which changes will appear need to be filed, together with the certification required by WAC 388-96-117. Adjustments to reimbursement rates resulting from an amended report will be made in accordance with WAC 388-96-769. [Order 1262, § 388-96-122, filed 12/30/77.]

**WAC 388-96-125 Reporting for an abbreviated period.** (1) Reports shall be filed as required by the department when a contractor or nursing home enters the prospective cost-related reimbursement system.

(2) Reports shall be filed as required by the department when the fiscal year of a contractor is changed. When a fiscal year is changed, the department shall be informed in writing at least thirty days before the effective date of the change.

(3) If the contractor changes during a fiscal year, the old contractor shall submit a final annual report covering the period during which its contract was in effect during the fiscal year. The new contractor shall submit a quarterly report covering the calendar quarter in which its contract becomes effective, and an annual report covering the period during which its contract is in effect during the fiscal year.

(4) A quarterly report covering an abbreviated period shall be submitted within thirty days after the end of the abbreviated period. An annual or semiannual report shall be submitted within sixty days after the end of the abbreviated period. [Order 1262, § 388-96-125, filed 12/30/77.]

**WAC 388-96-128 Requirements for retention of records by the contractor.** All financial and statistical data supporting the required reports shall be retained for a period of three years subsequent to filing at a location in the state of Washington specified by the contractor. If at the end of three years there are unresolved audit questions, the records shall be retained until these questions are resolved. All such data shall be made available upon demand to authorized representatives of the department and of the United States department of health, education and welfare. When a contract is terminated, final settlement will not be made until accessibility and preservation of the records within the state of Washington are assured. [Order 1262, § 388-96-128, filed 12/30/77.]

**WAC 388-96-131 Requirement for retention of reports by the department.** The department will retain each

required report for a period of three years following the date the report was submitted. If at the end of three years there are unresolved audit questions, the report will be retained until such questions are resolved. [Order 1262, § 388-96-131, filed 12/30/77.]

**WAC 388-96-134 Disclosure of nursing home reports.** All required financial and statistical reports submitted by nursing homes to the department will be available for public disclosure. [Order 1262, § 388-96-134, filed 12/30/77.]

**WAC 388-96-201 Desk review.** (1) The department will analyze each annual cost report within six months after it is properly completed and filed.

(2) If it appears from this analysis that a contractor has not correctly determined or reported its costs, the department may request additional information from the contractor. If the department deems it necessary in order to ensure correct reporting, it may schedule a special field audit of the contractor. [Order 1262, § 388-96-201, filed 12/30/77.]

**WAC 388-96-204 Field audits.** Each annual cost report will be field audited by auditors employed by or under contract with the department. [Order 1262, § 388-96-204, filed 12/30/77.]

**WAC 388-96-207 Preparation for audit by the contractor.** (1) The department will normally notify the contractor at least two weeks in advance of a field audit.

(2) The contractor shall provide the auditors with access to the nursing home and to all financial and statistical records and work papers which support the data in the cost report. Such records shall be made available at a location in the state of Washington specified by the contractor.

(3) The contractor shall reconcile reported data with applicable federal income and payroll tax returns and with the financial statement as of the end of the period covered by the report. Such reconciliation shall be in suitable form for verification by the auditors. [Order 1262, § 388-96-207, filed 12/30/77.]

**WAC 388-96-210 Scope of field audits.** (1) Auditors will review the contractor's record-keeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) Auditors will examine the contractor's financial and statistical records to verify that:

(a) Supporting records are in agreement with reported data;

(b) Only those expense items the department has specified as allowable costs have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary and related to patient care; and

(d) Recipient trust funds have been properly maintained.

(3) Auditors will prepare draft audit narratives and summaries and provide them to the contractor before final narratives and summaries are prepared. [Order 1262, § 388-96-210, filed 12/30/77.]

**WAC 388-96-213 Inadequate documentation.** The auditors will disallow any expenses reported as allowable costs which are not supported by adequate documentation in the contractor's financial records. Documentation must show both that the costs were incurred and that they were related to patient care. [Order 1262, § 388-96-213, filed 12/30/77.]

**WAC 388-96-216 Deadline for completion of audits.** (1) Field audits will be completed within one year after a properly completed annual cost report is received by the department, provided field auditors are given timely access to the nursing home and to all financial and statistical records necessary to audit the report.

(2) The department will give priority to field audits of final annual reports and whenever possible will begin such field audits within sixty days after a properly completed final annual report is received. [Order 1262, § 388-96-216, filed 12/30/77.]

**WAC 388-96-219 Disclosure of audit narratives and summaries.** Final audit narratives and summaries prepared by the auditor will be available for public disclosure. [Order 1262, § 388-96-219, filed 12/30/77.]

**WAC 388-96-222 Settlement.** (1) Following completion of the field audit of an annual report, the department will compare the prospective rates paid to the contractor during the report period, weighted according to the number of patient days during which each rate was in effect, with the contractor's audited allowable costs for the period, taking into account all authorized shifting (WAC 388-96-223).

(2) Within sixty days after completion of the field audit, the department will send a written audit report to the contractor. In this report, the department will:

(a) Explain the application of relevant contract provisions, regulations, auditing standards, rate formulas, and department policies to the contractor's report, in sufficient detail to permit the contractor to calculate with reasonable certainty its audited allowable costs and its settlement with the department;

(b) Advise the contractor of rules and regulations justifying a settlement determination resulting in reimbursement in any cost center at less than actual allowable costs, as reported by the contractor and verified by audit;

(c) Summarize all audit disallowances; and

(d) Request the contractor to refund money, if necessary, in accordance with the following principles;

(i) In the patient care and food cost areas, the contractor shall refund all portions of payments received for recipients (excluding exceptional care recipients) in excess of allowable patient care and food costs, respectively, for those recipients;

(ii) In the patient care cost area, the contractor shall also refund the percentage of the amount paid (less any

recovery under subsection (i) above) equal to the percentage by which average per patient day nursing service hours provided were less than the minimum number of hours issued by the department;

(iii) In the administration and operations and property cost areas, payments in excess of allowable costs will normally be retained by the contractor. Those overpayments shall be refunded only in the following circumstances:

(A) costs totaling \$.02 per patient day or \$1,000, whichever is higher, in any cost area, were reported which cannot be documented at audit, or accumulated liabilities of at least that amount accumulated liabilities were not properly reversed in accordance with WAC 388-96-032 or 388-96-113; or

(B) all conditions and standards were not met during the entire fiscal year, as determined by the department in Title XIX certification surveys. The portion of the total overpayment attributable to thirty days plus the number of days from the date of the first survey at which a standard or condition was found unmet until the date of the survey showing all conditions and standards met will be recovered; and

(iv) The amount of any recoveries under WAC 388-96-571(4) or 388-96-573.

(3) The contractor shall pay the refund, or shall commence repayment in accordance with a schedule determined by the department, within sixty days after receiving the audit report, unless the contractor contests settlement issues in good faith in accordance with the procedures set out in WAC 388-96-904. If the settlement determination is contested, the contractor shall pay or commence repayment in accordance with a schedule determined by the department within sixty days after such proceedings are concluded. The department will pay any amount due the contractor as the result of errors discovered at audit in billing or payment within thirty days after the audit report is received by the contractor or within thirty days after proceedings to contest the settlement are concluded.

(4) If the contractor does not refund the overpayment or any installment when due, the department may withhold payments from current billings until the overpayment is refunded. Payments will only be withheld under this subsection up to the unrefunded amount of the overpayment. [Order 1262, § 388-96-222, filed 12/30/77.]

**WAC 388-96-223 Shifting.** In determining a contractor's settlement, if allowable costs were less than the rate in the patient care cost area, savings will be shifted (or "transferred") to cover any deficit in the food cost area. If allowable costs were less than the rate in the food cost area, savings will be shifted to cover any deficit in the patient care cost area, except where the deficit results from providing more than the maximum issued hours of nursing service. No other shifting will be done. [Order 1262, § 388-96-223, filed 12/30/77.]

**WAC 388-96-225 Date settlement becomes final.** (1) A settlement determination will become final thirty days after the date the settlement report is received by

the contractor unless the contractor contests this determination in accordance with the procedures set out in WAC 388-96-904. In the event the settlement determination is contested, it will be final as of the date these proceedings are concluded.

(2) A settlement will be reopened if necessary to make adjustments in accordance with WAC 388-96-571(4). [Order 1262, § 388-96-225, filed 12/30/77.]

**WAC 388-96-366 The provider shall establish and maintain.** (1) As a service to the recipient, a bookkeeping system, incorporated in the business records, adequate for audit, for all recipient moneys entrusted to and received by the facility for the recipient.

(2) The system will apply to the recipient who is:

(a) Incapable of handling his own money and whose guardian, relative, department economic and social service office administrator, or physician makes written request of the facility to accept this responsibility; if the social security form SSA-780, "certificate of applicant for benefits on behalf of another," is utilized as documentation, it must be signed by one of the persons designated in this subparagraph.

(b) Capable of handling his own money, but requests the facility in writing to accept this responsibility.

(3) It shall be the responsibility of the provider to maintain such written authorization in the recipient's file.

(4) The recipient must be given at least a quarterly reporting of all financial transactions in their trust account. The representative payee, the guardian and/or other designated agents of the recipient must be sent a copy of the quarterly accounting report. [Order 1168, § 388-96-366, filed 11/3/76; Order 1114 § 388-96-366, filed 4/21/76.]

**WAC 388-96-369 The provider shall maintain a subsidiary ledger with an account for each recipient for whom the provider holds money in trust.** (1) Each account and related supporting information shall:

(a) Be maintained at the facility,

(b) Be kept current,

(c) Be balanced each month, and

(d) Show in detail, with supporting verification, all moneys received on behalf of the individual patient and the disposition of all moneys so received.

(2) Each account shall be available for audit and inspection by a department representative and be maintained for a minimum of three years. The provider further agrees to notify the economic and social service office of the department when:

(a) The account of any individual certified on or before December 31, 1973, whose award letter indicates a limit of \$200.00 cash, reaches the sum of \$175.00.

The Economic and Social Service Office will re-evaluate the status of each recipient certified under the eligibility criteria prior to January 1, 1974 who has an award letter specifying a \$200.00 cash limit.

(b) The account of any individual certified on or after January 1, 1974, whose award letter indicates a limit of \$1,500.00 reaches the sum of \$1,450.00.

(c) For both groups, the accumulation toward the limit, after admission to the facility, is permitted only from savings from the clothing and personal incidentals allowance and other income which the Department specifically designates as exempt income from time to time.

(d) No patient account may be overdrawn (show a debit balance). If a patient wants to spend an amount greater than in such patient's trust account, the home may provide money from its own funds and collect the debt by installments from that portion of the patient's allowance remaining at the end of each month. No interest may be charged to patients for such loans.

(3) In order to ensure that patient trust accounts are not charged for services provided under the Title XIX program, any charge for medical services otherwise properly made to a patient's trust account must be supported by a written denial from the department.

(a) A request for additional equipment such as a walker, wheelchair or crutches must have a written denial from the Department of Social and Health Services before a patient trust account can be charged.

(b) Except as otherwise provided below, a request for physical therapy, restorative therapy, drugs, or other medical services must have a written denial from the local ESSO before a patient trust account can be charged.

(i) A written denial from the local ESSO is not required when the pharmacist verifies that a drug is not covered by the program (e.g., items on the FDA list of Ineffective or Possible Effective drugs, non-formulary over-the-counter (OTC) medications such as vitamins, laxatives, nose drops, etc.). The pharmacist's notation to this effect is sufficient. [Order 1168, § 388-96-369, filed 11/3/76; Order 1114, § 388-96-369, filed 4/21/76.]

**WAC 388-96-372 The provider may maintain a petty cash fund originating from trust moneys of an amount reasonable and necessary for the size of the facility and the needs of the patients, not to exceed \$500.00.** (1) This petty cash fund shall be an imprest fund. All moneys over and above the trust fund petty cash amount shall be deposited intact in a trust fund checking account, separate and apart from any other bank account(s) of the facility or other facilities.

(2) Cash deposits of recipient allowances must be made intact to the trust account within one week from the time that payment is received from the department, social security administration, or other payor.

(3) Any related bankbooks, bank statements, checkbook, check register, and all voided and cancelled checks, shall be made available for audit and inspection by a department representative, and shall be maintained by the home for not less than three years.

(4) No service charges for such checking account shall be paid by recipient trust moneys.

(5) The trust account per bank shall be reconciled monthly to the trust account per patient ledgers. [Order 1114, § 388-96-372, filed 4/21/76.]

**WAC 388-96-375 Trust moneys control/disbursement.** Trust moneys shall be held in trust and are not to



be turned over to anyone other than the recipient or his guardian without the written consent of the recipient, his designated agent as appointed by power-of-attorney, or appropriate department of social and health services personnel as designated by the ESSO Administrator.

(1) When moneys are received, a receipt should be filled out in duplicate; one copy should be given to the person making payment or deposit, and the other copy should be retained in the receipt book for easy reference.

(2) Checks received by patients must be endorsed by the patient. Schedule I-A(6e) of the Agreement states in part: "Each patient receiving a check or state warrant is responsible for endorsement by his own signature. Only when the patient is incapable of signing his name may the Provider assume the responsibility of securing the patient's mark "X" followed by the name of the patient and the signature of two witnesses."

(3) If both the general fund account and the trust fund account are at the same bank, the trust portion of checks which include care payments can be deposited directly to trust by including a trust account deposit slip for the correct amount with the checks and the general account deposit slip.

(4) The patient's trust account ledger sheet must be credited with the allowance received. This should be referenced with the receipt number and must be supported by a copy of the deposit slip (one copy for all deposits made). [Order 1168, § 388-96-375, filed 11/3/76; Order 1114, § 388-96-375, filed 4/21/76.]

**WAC 388-96-378 Trust moneys availability.** Moneys so held in trust for any recipient shall be available for his or her personal and incidental needs when requested by the recipient or one of the individuals designated in WAC 388-96-375. [Order 1114, § 388-96-378, filed 4/21/76.]

**WAC 388-96-381 Procedure for refunding trust money.** (1) When a recipient is discharged and/or transferred, the balance of the recipient's trust account will be returned to the individuals within one week designated in WAC 388-96-375 and a receipt obtained. In cases it may be advisable to mail the refund to the recipient's new residence. [Order 1114, § 388-96-381, filed 4/21/76.]

**WAC 388-96-384 Liquidation of trust fund.** (1) Expired Patient. The provider will obtain a receipt from next of kin, guardian, or duly qualified agent when releasing the balance of money held in trust. If there is no identified next of kin, guardian, or duly qualified agent, the ESSO is to be contacted in writing within seven days for assistance in the release of the money held in trust. A check or other document showing payment to such next of kin, guardian, or duly qualified agent will serve as a receipt.

(2) Patient, Unable To Locate. In situations where the patient leaves the nursing home without authorization and his whereabouts are unknown:

(a) The nursing home will make a reasonable attempt to locate the missing patient. This includes: contacting

friends, relatives, police, the guardian, and the Economic and Social Services Office in the area.

(b) If the patient cannot be located after 90 days, the nursing home must notify the Department of Revenue of the existence of "abandoned property", outlined in chapter 63.28 RCW. The nursing home will be required to deliver to the Department of Revenue the balance of the patients' trust fund account within 20 days following such notification. [Order 1168, § 388-96-384, filed 11/3/76; Order 1114, § 388-96-384, filed 4/21/76.]

**WAC 388-96-501 Allowable costs.** Allowable costs are documented costs which are necessary, ordinary and related to the provision of SNF or ICF services to nursing home patients, and are not expressly declared nonallowable by applicable regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay. [Order 1262, § 388-96-501, filed 12/30/77.]

**WAC 388-96-503 Substance prevails over form.** (1) In determining allowable costs, the substance of a transaction will prevail over its form. Accordingly, allowable costs will not include increased costs resulting from transactions or the application of accounting methods which circumvent the principles of the prospective cost-related reimbursement system.

(2) Increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale and leaseback, successive sales or leases of a single facility or piece of equipment) will not be allowed. [Order 1262, § 388-96-503, filed 12/30/77.]

**WAC 388-96-505 Offset of miscellaneous revenues.** (1) Allowable costs shall be reduced by the contractor whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for SNF or ICF services.

(2) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate.

(3) Only allowable costs shall be recovered under this section. Costs allocable to activities or services which are not included in SNF or ICF services (e.g., costs of vending machines, patients' personal laundry, and services specified in chapter 388-86 WAC) are nonallowable costs. [Order 1262, § 388-96-505, filed 12/30/77.]

**WAC 388-96-507 Costs of meeting standards.** All necessary and ordinary expenses a contractor incurs in providing SNF and/or ICF services meeting all applicable standards will be allowable costs. These expenses include necessary and ordinary costs of:

- (1) Meeting licensing and certification standards;
- (2) Providing regular room, dietary and nursing services, minor medical and surgical supplies, and the use

of equipment and facilities, in accordance with WAC 388-88-050;

(3) Fulfilling accounting and reporting requirements imposed by the department; and

(4) Performing any patient assessment activity required by the department. [Order 1262, § 388-96-507, filed 12/30/77.]

**WAC 388-96-513 Limit on costs to related organizations.** (1) Costs applicable to services, facilities and supplies furnished by organizations related to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere. The term "related organization" is defined in WAC 388-96-010.

(2) Documentation of costs to related organizations shall be made available to department auditors at the time and place the financial records relating to the nursing home are audited. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented. [Order 1262, § 388-96-513, filed 12/30/77.]

**WAC 388-96-521 Start-up costs.** Necessary and ordinary start-up costs, as defined in WAC 388-96-010, will be allowable if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care. [Order 1262, § 388-96-521, filed 12/30/77.]

**WAC 388-96-523 Organization costs.** (1) Necessary and ordinary costs which are directly incident to the creation of a corporation or other form of business of the contractor, will be allowable if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

(2) Allowable organization costs include but are not limited to legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation. They do not include costs relating to the issuance and sale of shares of capital stock or other securities. [Order 1262, § 388-96-523, filed 12/30/77.]

**WAC 388-96-525 Education and training.** (1) Ordinary expenses of employee orientation, on-the-job training, in-service training, and continuing education will be allowable costs, if the training is necessary in order for employees to maintain relevant professional licenses, or is directly related to the performance of duties assigned or reasonably in prospect.

(2) Necessary and ordinary expenses of training programs conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs. [Order 1262, § 388-96-525, filed 12/30/77.]

**WAC 388-96-529 Total compensation—Owners, relatives and certain administrative personnel.** For purposes of the tests in WAC 388-96-531 and 388-96-533, total compensation includes gross salary or wages, excluding payroll taxes paid by the contractor, plus fringe

benefits (e.g., health insurance) made available to all employees. [Order 1262, § 388-96-529, filed 12/30/77.]

**WAC 388-96-531 Owner or relative—Compensation.** (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits set out in this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) The contractor shall maintain customary time records adequate for audit for owners and relatives who receive compensation.

(3) For purposes of this section, if the contractor with the department is a partnership or corporation, "owner" includes all general and limited partners, and all corporate officers, directors, and beneficial interest holders of five percent or more of the corporation's outstanding stock. [Order 1262, § 388-96-531, filed 12/30/77.]

**WAC 388-96-533 Maximum allowable compensation of certain administrative personnel.** (1) Total compensation of the licensed administrator for services actually rendered to a nursing home on a full time basis (at least 40 hours per week) will be allowable at the lower of (a) actual compensation received, or (b) the amount in the table in subsection (4) of this section corresponding to the number of set-up beds in the nursing home. Compensation of the licensed administrator will only be allowable if the department is given written notice of his or her employment within ten days after it begins.

(2) Total compensation of not more than one full time licensed assistant administrator will be allowable if there are at least eighty set-up beds in the nursing home, at the lower of (1) actual compensation received, or (2) seventy-five percent of the appropriate amount in the table in subsection (4) of this section.

(3) Total compensation of not more than one full time registered administrator-in-training will be allowable at the lower of (1) actual compensation received, or (2) sixty percent of the appropriate amount in the table.

(4) TABLE

Maximum Allowable Total Compensation for Licensed Administrators—Calendar Year 1978

Bed Size	Maximum Allowable Total Compensation
1 - 49	\$22,098
50 - 99	\$23,126
100 - 149	\$25,053
150 and up	\$25,695

(5) The table applies to the portion of a contractor's fiscal year in calendar year 1978. For any part of a fiscal year in calendar year 1979, a table to be promulgated by the department will apply.

(6) If any of the above employees works fewer than forty hours as administrator, assistant administrator or administrator-in-training in the average week, allowable compensation shall be the lower of (a) actual compensation received, or (b) the appropriate amount in the table multiplied by the percentage of forty hours worked in the relevant position in the average week. Further discounting is required if the person was licensed or registered and/or worked for less than the entire report period.

(7) The contractor shall maintain time records for the licensed administrator and for an assistant administrator or administrator-in-training, if any. [Order 1262, § 388-96-533, filed 12/30/77.]

**WAC 388-96-535 Management agreements.** (1) If a contractor intends to enter into a management agreement with an individual or firm which will manage the nursing home as agent of the contractor, a copy of the agreement must be received by the department at least sixty days before it is to become effective. A copy of any amendment to a management agreement must also be received by the department in advance of the date it is to become effective. No management fees for periods prior to the time the department receives a copy of the applicable agreement will be allowable.

(2) Management fees will be allowed only if (a) a written management agreement both creates a principal/agent relationship between the contractor and the manager, and sets forth the items, services and activities to be provided by the manager; and (b) documentation demonstrates that the services contracted for were actually delivered.

(3) To be allowable, fees must be for necessary, non-duplicative services. Allowable fees for general management services, including the portion of a management fee which is not allocated to specific services such as accounting, are limited to (a) the maximum allowable compensation under WAC 388-96-533 of the licensed administrator and, if the facility has at least eighty set-up beds, of an assistant administrator, less (b) actual compensation received by the licensed administrator and by the assistant administrator and administrator-in-training, if any. In computing maximum allowable compensation under WAC 388-96-533 for a facility with at least eighty set-up beds, include the maximum compensation of an assistant administrator even if no assistant administrator is employed.

(4) A management fee paid to or for the benefit of a related organization will be allowable to the extent it does not exceed either (a) the limits set out in subsection (3) of this section, or (b) the lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement, or the cost of comparable services purchased elsewhere. [Order 1262, § 388-96-535, filed 12/30/77.]

**WAC 388-96-539 Allowable interest.** (1) The contractor's necessary and ordinary interest for working capital and capital indebtedness will be allowable.

(a) To be necessary, interest must be incurred in connection with a loan which satisfies a financial need of the contractor and be for a purpose related to patient care. Interest expense relating to business opportunity or goodwill, lease acquisition costs, agreements not to compete, and other intangibles not related to patient care will not be allowed.

(b) To be ordinary, interest must be at a rate which is not in excess of what a prudent borrower would have to pay at the time of the loan in an arms-length transaction in the money market.

(c) Interest expense shall include amortization of bond discounts and expenses related to the bond issue. Amortization shall be over the period from the date of sale to the date of maturity or, if earlier, the date of extinguishment of the bonds.

(2) Interest paid to or for the benefit of a related organization will be allowed only to the extent the actual interest does not exceed the cost to the related organization of obtaining the use of the funds. [Order 1262, § 388-96-539, filed 12/30/77.]

**WAC 388-96-541 Offset of interest income.** (1) In computing allowable costs, interest income from the investment or lending of nonrestricted funds shall be deducted from allowable interest expense.

(2) Interest income from the investment or lending of restricted funds shall not be deducted from allowable interest expense. [Order 1262, § 388-96-541, filed 12/30/77.]

**WAC 388-96-543 Expense for construction interest.** Interest expense relating to construction of a nursing home incurred during the period of construction shall be capitalized and amortized over not less than sixty consecutive months from the date the first patient is admitted. The period of construction shall extend from the date of the construction loan to the date the facility is put into service for patient care. [Order 1262, § 388-96-543, filed 12/30/77.]

**WAC 388-96-547 Operating leases of facilities and equipment.** Rental or lease costs under arms-length operating leases of facilities and/or equipment shall be allowable to the extent the cost is not in excess of arms-length rental or lease costs of comparable facilities or equipment. [Order 1262, § 388-96-547, filed 12/30/77.]

**WAC 388-96-549 Rental expense paid to related organizations.** The expense of renting facilities or equipment from a related organization shall be allowable to the extent the rental does not exceed the related organization's costs of owning (e.g., depreciation, interest on a mortgage) or leasing the assets, computed in accordance with this chapter. [Order 1262, § 388-96-549, filed 12/30/77.]

**WAC 388-96-553 Capitalization.** The following costs shall be capitalized and depreciated in computing allowable costs:

(1) Expenses for equipment with historical cost in excess of \$150 per unit and a useful life of more than one year from the date of purchase;

(2) Expenses for equipment with historical cost of \$150 or less per unit if either:

(a) The item was acquired in a group purchase where the total cost exceeded \$150; or

(b) The item was part of the initial stock of the nursing home. [Order 1262, § 388-96-553, filed 12/30/77.]

**WAC 388-96-555 Depreciation expense.** Depreciation expense on depreciable assets which are required in the regular course of providing patient care will be an allowable cost. It shall be (1) identifiable and recorded in the contractor's accounting records and (2) computed using the depreciation base, lives and methods specified below. [Order 1262, § 388-96-555, filed 12/30/77.]

**WAC 388-96-557 Depreciable assets.** (1) Tangible assets of the following types in which a contractor has an economic interest through ownership are subject to depreciation:

(a) Building – the basic structure or shell and additions thereto.

(b) Building Fixed Equipment – attachments to buildings, such as wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. The general characteristics of this equipment are:

(i) Affixed to the building and not subject to transfer; and

(ii) A fairly long life, but shorter than the life of the building to which affixed.

(c) Major Movable Equipment – such items as beds, wheelchairs, desks, and vehicles. The general characteristics of this equipment are:

(i) A relatively fixed location in the building;

(ii) Capable of being moved;

(iii) A unit cost sufficient to justify ledger control;

(iv) Sufficient size and identity to make control feasible by means of identification tags; and

(v) A minimum life of approximately three years.

(d) Minor Equipment – such items as waste baskets, bed pans, syringes, catheters, silverware, mops, and buckets which are properly capitalized. No depreciation shall be taken on items which are not properly capitalized (see WAC 388-96-553). The general characteristics of minor equipment are:

(i) In general, no fixed location and subject to use by various departments;

(ii) Comparatively small in size and unit cost;

(iii) Subject to inventory control;

(iv) Fairly large number in use; and

(v) Generally, a useful life of one to three years.

(e) Land Improvements – such items as paving, tunnels, underpasses, on-site sewer and water lines, parking lots, shrubbery, fences, walls, etc., where replacement is the responsibility of the contractor.

(f) Leasehold Improvements – betterments and additions made by the lessee to the leased property, which

become the property of the lessor after the expiration of the lease.

(2) Land is not depreciable. The cost of land includes the cost of such items as off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving and sewers, the cost of permanent roadways and grading of a nondepreciable nature, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor. [Order 1262, § 388-96-557, filed 12/30/77.]

**WAC 388-96-559 Depreciation base.** (1) The depreciation base shall be the historical cost of the contractor in acquiring the asset from an unrelated organization and preparing it for use, less goodwill. If the department challenges the historical cost of an asset, it will have the fair market value of the asset at the time of purchase established by an MAI appraisal (for facilities). The fair market value of items of equipment will be established by appraisals performed by vendors of the particular type of equipment. When these appraisals are conducted, the depreciation base of the asset will not exceed its fair market value. Estimated salvage value shall be deducted from historical cost where the straight-line or sum-of-the-years digits method of depreciation is used. (2) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under the program. [Order 1262, § 388-96-559, filed 12/30/77.]

**WAC 388-96-561 Depreciation base—Donated or inherited assets.** (1) The depreciation base of donated assets, as defined in WAC 388-96-010, or of assets received through testate or intestate distribution, shall be the lesser of (a) fair market value at the date of donation or death, less goodwill. Estimated salvage value shall be deducted from fair market value where the straight-line or sum-of-the-years digits method of depreciation is used; or (b) the depreciation base under the cost-related reimbursement program of the owner last participating in the program, if any.

(2) If the donation or distribution is between related organizations, the base shall be the lesser of (a) fair market value, less goodwill and, where appropriate, salvage value, or (b) the depreciation base the related party had or would have had for the asset under the program. [Order 1262, § 388-96-561, filed 12/30/77.]

**WAC 388-96-565 Lives.** (1) Except for buildings, the contractor shall use lives no shorter than guideline lives contained in the internal revenue service Class Life ADR System or published by the American Hospital Association in computing allowable depreciation. The shortest life which may be used for buildings is thirty years. Lives shall be measured from the date of the most recent arms-length acquisition of the asset.

(2) Building improvements shall be depreciated over the remaining useful life of the building, but not less than fifteen years.

(3) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(4) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation. [Order 1262, § 388-96-565, filed 12/30/77.]

**WAC 388-96-567 Methods of Depreciation.** (1) Buildings, land improvements, and fixed equipment shall be depreciated using the straight-line method. Major-minor equipment shall be depreciated using either the straight-line method or a recognized accelerated depreciation method (declining balance, double declining balance, or sum-of-the-years digits). Contractors which have elected to take accelerated depreciation on major-minor equipment may change to the straight-line method without permission of the department.

(2) The annual provision for depreciation shall be reduced by the portion allocable to use of the asset for purposes not both necessary and related to patient care.

(3) In computing depreciation on assets acquired before the contractor entered the program, depreciation computed in accordance with this chapter for the period before entry shall be deducted from the depreciation base.

(4) No further depreciation shall be claimed after an asset has been fully depreciated. [Order 1262, § 388-96-567, filed 12/30/77.]

**WAC 388-96-569 Retirement of depreciable assets.** (1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and there is a likelihood that it can be effectively used in the future, depreciation may be taken. [Order 1262, § 388-96-569, filed 12/30/77.]

**WAC 388-96-571 Handling of gains and losses upon retirement of depreciable assets.** (1) Gains and losses on the retirement of depreciable assets either during the period of participation in the program or within twelve months following termination, shall be included in computing allowable costs. They shall be treated as income or expense and separately disclosed in required reports.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset. In computing a gain for purposes of this section, one percent of the total gain shall be deducted for each month of ownership of an asset with an expected useful life of one hundred months or longer. For an asset with an expected useful life of less than one hundred months, the portion of the gain equal to the ratio of the actual life of the asset from its most recent arms-length acquisition up to the date of retirement to its expected useful life shall be deducted.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, or if the contractor is terminating its contract, the gain or loss shall be spread over the actual life of the asset up to the date of retirement, provided that a loss will only be so spread if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset. Depreciation schedules for fiscal years during which the contractor participated in the program shall be adjusted. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement for depreciation which would have been paid with the base adjusted to reflect the gain or loss, will be computed. Where the difference results from a gain, it shall be recovered by the department. Where the difference results from a loss, it will be added to allowable costs for purposes of determining settlement. [Order 1262, § 388-96-571, filed 12/30/77.]

**WAC 388-96-573 Recovery of excess over straight-line depreciation.** If a contractor terminates its contract without selling or otherwise retiring equipment which was depreciated using an accelerated method, depreciation schedules relating to these assets for periods during which the contractor participated in the program shall be adjusted. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978 and the reimbursement which would have been paid for depreciation if the straight-line method had been used, will be recovered by the department. [Order 1262, § 388-96-573, filed 12/30/77.]

**WAC 388-96-585 Nonallowable costs.** (1) Costs will be nonallowable if they are not documented, necessary, ordinary, and related to the provision of SNF or ICF services to nursing home patients.

(2) Nonallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the Title XIX program, including costs of unnecessary care. Costs of nonprogram items or services will be nonallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution.

(b) Costs of services and items covered by the department's medical care program but not included in SNF or ICF services. These items and services are listed in chapter 388-86 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be nonallowable as of the date they are determined not to be reimburseable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes, or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere.

(j) Bad debts.

(k) Charity and courtesy allowances.

(l) Cash or other contributions to charitable organizations or political parties, and costs incurred to improve community relations.

(m) Vending machine expenses.

(n) Expenses for barber or beautician services not included in routine care.

(o) Funeral and burial expenses.

(p) Costs of gift shop operations and inventory.

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs.

(r) Fund-raising expenses, except those directly related to the patient activity program.

(s) Penalties and fines.

(t) Expenses related to telephones, televisions, radios and similar appliances in patients' private accommodations.

(u) Federal, state and other income taxes.

(v) Costs of special care services, such as private duty nurses, except where authorized by the department for exceptional care recipients.

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees.

(x) Expenses of profit-sharing plans.

(y) Costs of training programs for nonemployees other than volunteers.

(z) Personal expenses and allowances of owners or relatives, except those allowable as compensation.

(aa) All expenses of maintaining professional licenses or membership in professional organizations not related to operation of the facility.

(bb) Costs related to agreements not to compete.

(cc) Goodwill.

(dd) Organization costs, start-up costs, and construction interest not amortized over at least sixty months after opening.

(ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is

rendered in favor of the department or where otherwise the determination of the department stands. Legal and consultant fees in connection with a lawsuit against the department are nonallowable. [Order 1262, § 388-96-585, filed 12/30/77.]

**WAC 388-96-801 Billing period.** A contractor shall bill the department for care provided to medical care recipients from the first through the last day of each calendar month. [Order 1262, § 388-96-801, filed 12/30/77.]

**WAC 388-96-804 Billing procedures.** (1) A contractor shall bill the department each month by completing and returning the nursing home statement provided by the department. This form shall be completed and filed in accordance with instructions issued by the department.

(2) A contractor shall not bill the department for service provided to a recipient until an award letter relating to the recipient has been received. At that time it may bill for service provided back through the date the recipient was admitted or became eligible.

(3) Billing shall not cover the day of a recipient's death, discharge, or transfer from the nursing home. [Order 1262, § 388-96-804, filed 12/30/77.]

**WAC 388-96-807 Charges to patients.** (1) The department will notify a contractor of the amount each medical care recipient is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility to collect that portion of the cost of care from the patient, and to account for any authorized reduction from his or her contribution in accordance with procedures established by the department.

(2) If a contractor receives documentation showing a change in the income or resources of a recipient which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the ESSO within seventy-two hours. If necessary, appropriate corrections shall be made in the next nursing home statement, and a copy of documentation supporting the change shall be attached. If increased funds for a recipient are received by a contractor, the normal amount shall be allowed for clothing, personal and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the reimbursement rate established by the department as full compensation for all services it is obligated to provide under the contract. It shall not seek or accept additional compensation from or on behalf of a recipient for any or all such services. [Order 1262, § 388-96-807, filed 12/30/77.]

**WAC 388-96-810 Payment.** (1) The department will reimburse a contractor for service rendered under the nursing home contract and billed for in accordance with WAC 388-96-804.

(2) The amount paid will be computed using the appropriate rate assigned to the contractor.

(3) The special rate assigned to a contractor by the department for the care of an exceptional care recipient

will be used in computing the amount paid for care of such recipient.

(4) For each recipient, the department will pay an amount equal to the appropriate rate or rates, multiplied by the number of patient days each rate was in effect, less the amount the recipient is required to pay for his or her care (see WAC 388-96-807). [Order 1262, § 388-96-810, filed 12/30/77.]

**WAC 388-96-813 Suspension of payment.** (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extensions. Payments will be released as soon as a properly completed report is received.

(b) Auditors or other authorized department personnel in the course of their duties are refused access to a nursing home or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided.

(c) A refund in connection with an annual settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund.

(d) Payment for the final thirty days of service under a contract will be held pending final settlement when the contract is terminated.

(2) No payment will be withheld until written notification of the suspension is given to the contractor, stating the reason therefor. [Order 1262, § 388-96-813, filed 12/30/77.]

**WAC 388-96-816 Termination of payments.** All payments to a contractor will end no later than thirty days after any of the following occurs:

(1) A contract expires, is terminated or is not renewed;

(2) A facility license is revoked; or

(3) A facility is decertified as a Title XIX facility. [Order 1262, § 388-96-816, filed 12/30/77.]

**WAC 388-96-901 Disputes.** (1) If a contractor wishes to contest the way in which a rule, contract provision, or policy statement relating to the prospective cost-related reimbursement system was applied to the contractor by the department, e.g., in setting a reimbursement rate or determining a disallowance at audit, it shall first pursue the administrative review process set out in WAC 388-96-904.

(2) The administrative review process in WAC 388-96-904 need not be exhausted if a contractor wishes to challenge the legal validity of a statute, rule, contract provision or policy statement. [Order 1262, § 388-96-901, filed 12/30/77.]

**WAC 388-96-904 Administrative review process.**

(1) Within thirty days after a contractor is notified of an action or determination it wishes to challenge, it shall request in writing that the chief, office of nursing home affairs or his or her designee (chief, ONHA) review

such determination. The request shall be signed by the contractor or the licensed administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for its contention that the determination was erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request.

(2) After receiving a request meeting the above criteria, the chief, ONHA will contact the contractor to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than thirty days after a properly completed request is received unless both parties agree in writing to a specific later date.

(3) The contractor and appropriate representatives of the department shall attend the conference. In addition, representatives selected by the contractor may attend and participate. The contractor shall bring to the conference, or provide to the department in advance of the conference, any documentation on which it intends to rely to support its contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Unless informal agreement has been reached at the conference, a written decision by the chief, ONHA will be furnished to the contractor within sixty days after the conclusion of the conference.

(5) If the contractor desires review of an adverse decision of the chief, ONHA, it shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the Administrative Procedure Act, chapter 34.04 RCW. [Order 1262, § 388-96-904, filed 12/30/77.]

## Chapter 388—320 WAC

### PUBLIC RECORDS—DISCLOSURE

#### WAC

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**WAC 388-320-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the department of social and health services with the provisions of chapter 1, Laws of 1973, Disclosure—Campaign Finances—Lobbying Records; and in particular with sections 25-32 of that act dealing with public records. [Order 899, § 388-320-010, filed 1/25/74.]

**WAC 388-320-020 Definitions.** (1) "Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the department regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Department" means the department of social and health services. [Order 899, § 388-320-020, filed 1/25/74.]

**WAC 388-320-030 Establishment of department.** (1) The department of social and health services was created effective July 1, 1970 under the authority of chapter 43.20A RCW. The former departments of health, public assistance and institutions, and the former veterans rehabilitation council and division of vocational rehabilitation of the coordinating council on occupational education were abolished and the department was assigned substantially all their powers, duties and functions.

(2) The department was established to integrate and coordinate most of those activities of the state of Washington which involve provision of care for individuals who, because of economic, social, or health conditions, require financial assistance, institutional care, or rehabilitative or other social or health services.

(3) The state administrative office of the department is located in Olympia. Regional and local units are located throughout the state. [Order 899, 388-320-030, filed 1/25/74.]

**WAC 388-320-035 Programs operated by department.** The department operates the following programs:

- (1) Adult correction and rehabilitation
- (2) Juvenile rehabilitation
- (3) Mental health

- (4) Developmental disabilities
- (5) Veterans' services
- (6) Income maintenance
- (7) Community social services
- (8) Medical assistance
- (9) Public health
- (10) Vocational rehabilitation [Order 899, § 388-320-035, filed 1/25/74.]

**WAC 388-320-040 Operations and procedure—Organization.** (1) The department's basic organizational structure is built around major functions with different organizations having responsibility for aspects of the various departmental programs. No single organization has sole responsibility for all aspects of any one program. Responsibility for program development is assigned to central office staff and for operation to staff in the field. Supporting services are provided to all staff.

(2) The department has three basic functional components:

- (a) office of the secretary
- (b) program development and operation
- (c) management services [Order 899, § 388-320-040, filed 1/25/74.]

**WAC 388-320-045 Operations and procedure—Office of secretary.** The secretary of the department is appointed by the governor with the consent of the senate and serves at the pleasure of the governor. Subject to statutory limitations the secretary has complete charge of the department. He may delegate any power or duty vested in his office to any assistant or subordinate but he remains responsible for the official acts of the officers and employees. [Order 899, § 388-320-045, filed 1/25/74.]

**WAC 388-320-050 Operations and procedure—Program divisions.** (1) The secretary has established four divisions within the department to which he has assigned primary responsibility for the development and operation of each of the programs enumerated in WAC 388-320-035 as follows:

(a) The division of adult corrections has been assigned responsibility for the adult correction and rehabilitation program.

(b) The division of vocational rehabilitation services has been assigned responsibility for the vocational rehabilitation program.

(c) The division of health services has been assigned responsibility for the medical assistance and public health programs.

(d) The division of community services has been assigned responsibility for the juvenile rehabilitation, mental health, developmental disabilities, veterans' services, income maintenance, and community social services programs.

(2) Each of these divisions is headed by a director. [Order 899, § 388-320-050, filed 1/25/74.]

**WAC 388-320-055 Operations and procedure—Program division responsibilities.** The secretary has authorized each division to make decisions with respect to



the development and operation of the programs assigned to it subject to responsibility to secure and give appropriate weight to timely suggestions from other divisions who may have some responsibility or concern with that program. These decisions include responsibility to

- (1) design programs
- (2) identify service needs
- (3) determine goals and objectives for the programs
- (4) determine priorities among service components
- (5) develop program policy
- (6) operate programs
- (7) monitor effectiveness of programs
- (8) administer pilot projects
- (9) represent the department before the legislature and in the community with respect to departmental programs
- (10) provide consultative assistance to other divisions and other agencies. [Order 899, § 388-320-055, filed 1/25/74.]

**WAC 388-320-060 Operations and procedure—Program division operation.** Each program division carries out its responsibilities through a central services office in Olympia, through a system of regional offices established throughout the state, and through local offices and institutions within these regions. [Order 899, § 388-320-060, filed 1/25/74.]

**WAC 388-320-070 Operations and procedure—Administrative divisions.** The secretary has created four divisions to which he has assigned responsibility for administrative and support services. The divisions, each of which is headed by a director, are:

- (1) Administrative services division, with responsibility for accounting services, budget services, staff services, information systems and support enforcement.
- (2) Management systems division, with responsibility for management analysis, operations review, and project management.
- (3) Personnel and training division.
- (4) Planning and research division, with responsibility for planning, research, program analysis and technical standards, and administrative regulations. [Order 899, § 388-320-070, filed 1/25/74.]

**WAC 388-320-080 Operations and procedure—Other organizational units.** The secretary has created a number of other organizational units with responsibilities not attributable to a single program. These units are directly responsible to the secretary or to his deputy and administer the following functions:

- (1) Citizen participation coordination.
- (2) Public affairs.
- (3) Minority affairs.
- (4) Legislative liaison.
- (5) Special investigators.
- (6) Attorney general's services. [Order 899, § 388-320-080, filed 1/25/74.]

**WAC 388-320-090 Operations and procedure—Rules adoption and publication.** Substantive and procedural rules of general applicability adopted by the department as authorized by law or adopted by the Washington state board of health and enforced by the department as authorized by law appear at the following WAC titles:

- (1) Title 248—Health
- (2) Title 275—Institutions, mental health, and mental retardation
- (3) Title 388—Economic and social services
- (4) Title 482—Veterans rehabilitation council
- (5) Title 490—Vocational rehabilitation. [Order 899, § 388-320-090, filed 1/25/74.]

**WAC 388-320-092 Statements of policy.** Statements of general policy or interpretations of general applicability as identified in WAC 388-320-093 through 388-320-095, including practice manuals maintained for department staff use, shall be available for public inspections. [Order 899, § 388-320-092, filed 1/25/74.]

**WAC 388-320-093 Statements of policy—Practice manuals.** The following manuals shall be available for inspection and copying through the office of the public records officer and shall in addition be available for inspection at the department's local offices:

- (1) Handbook for Licensing and Approval of Voluntary Child-Caring Agencies.
- (2) Staff Manual for Vocational Rehabilitation
- (3) Food Protection Reference Manual
- (4) Manual for Local Registrars of Vital Statistics
- (5) Local Government Merit Program Manual
- (6) Local Health Department Accounting Procedures Manual
- (7) Crippled Childrens Services Operations Manual
- (8) Rheumatic Fever Control Manual
- (9) A Guide to Services (Management Services Manual)
- (10) Medical Consultant Handbook
- (11) Manual A—Public Assistance Regulations
- (12) Manual E—Management Services Manual
- (13) Manual F—Public Assistance Financial Eligibility Manual
- (14) Manual G—Public Assistance Social Services Manual
- (15) Manual H—Public Assistance Social Services Manual
- (16) Systems Improvement Program Manual. [Order 899, § 388-320-093, filed 1/25/74.]

**WAC 388-320-094 Statements of policy—State plans.** The following state plans submitted to the federal government in connection with applications for federal funds for the support of programs administered by the department shall be available for inspection and copying through the office of the public records officer:

- (1) Comprehensive Public Health Services Formula Grants, authorized under Title III, Section 314(d) of the Public Health Service Act, to establish and maintain community, mental, and environmental public health services.

(2) Crippled Childrens Services, authorized under Title V of the Social Security Act, to provide medical and related services to crippled children and children suffering from conditions that lead to crippling.

(3) Health Facilities Construction—Grants, loans and loan guarantees authorized under Title VI of the Public Health Service Act, to plan for and provide hospitals, public health centers, laboratories, long-term care facilities, rehabilitation facilities and other related health facilities.

(4) Maternal and Child Health Services, authorized under Title V of the Social Security Act, to extend and improve services for reducing infant mortality and improvement of health of mothers and children.

(5) Mental Health—Alcohol Formula Grants, authorized under Title III of the Comprehensive Alcohol Abuse and Alcohol Abuse, Treatment and Rehabilitation act, to plan, establish, and maintain programs of prevention, treatment and rehabilitation to deal with alcohol abuse and alcoholism.

(6) Mental Health—Drug Abuse Formula Grants, authorized under Title IV of the Drug Abuse Office and Treatment Act, to plan, establish and conduct projects for the development of more effective drug abuse prevention functions.

(7) Child Welfare Services, authorized under Title IV-B of the Social Security Act, to establish, extend and strengthen services in programs for the prevention of neglect, abuse, exploitation or delinquency of children.

(8) Medical Assistance Program, authorized under Title XIX of the Social Security Act, to provide payments for medical assistance for recipients of cash assistance and other medically needy persons.

(9) Rehabilitation Services and Facilities—Basic Support (General), authorized under the Vocational Rehabilitation Act, to provide vocational rehabilitation services to persons with mental and physical handicaps other than those related to blindness.

(10) Rehabilitation Services and Facilities—Basic Support (Blind), authorized under the Vocational Rehabilitation Act, to provide vocational rehabilitation services to persons with mental and physical handicaps related to blindness.

(11) Developmental Disabilities—Basic Support, authorized under the Mental Retardation Facilities and Community Mental Health Centers Construction Act as amended by the Developmental Disabilities Services and Facilities Construction Amendments of 1970, to provide services to persons who have a disability resulting from mental retardation, cerebral palsy, epilepsy or other neurological condition which originated before age 18 and is a substantial handicap.

(12) Public Assistance—Social Services, authorized under the Social Security Act, to provide social services to needy individuals directed toward self-support and self-sufficiency and strengthening of family life.

(13) Public Assistance—Maintenance Assistance, authorized under the Social Security Act, to provide financial aid to the aged, blind, permanently and totally disabled, and families with dependent children, emergency assistance to needy families with children, and assistance to repatriated nationals.

(14) Special Programs for the Aging, authorized under Titles III and VII of the Older Americans Act, to provide programs for the aged and aging.

(15) Food programs, authorized by Food Stamp Act of 1964, as amended, and P.L. 74-320, as amended, to provide donated food to needy households and food stamps for purchase of foods in retail stores. [Order 899, § 388-320-094, filed 1/25/74.]

#### WAC 388-320-095 Statements of policy—Other.

The following statements of policy shall be available for inspection and copying through the office of the public records officer and shall in addition be available for inspection at the department's local offices:

(1) Directory of Voluntary Child Care in Institutions, Agencies and Public Childrens' Institutions

(2) Minimum Licensing Requirements for Child Caring Facilities

(3) Design Standards for Public Water Supplies, 1973

(4) Approved Cross-Connection Control Devices Listing

(5) Special Sewage Works Design Considerations for Protection of Waters Used for Shellfish Harvest, Water Supplies or Other Areas of Special Public Health Concern, 1969

(6) Water Supply Funding Program Guidelines and Procedures

(7) Emergency Medical Technician Policy Statement

(8) Emergency Medical Communications Policy Statement

(9) Guide to Budget Practices and Legal Responsibilities of Local Health Departments

(10) Series of numbered memoranda issued by Office of Eligibility.

(11) Policy Statement on Protection of Human Subjects in Research, Development, Demonstration and Other Projects.

(12) Series of numbered memoranda issued by the Division of Adult Corrections.

(13) Series of numbered memoranda issued by the Office of Mental Health.

(14) Series of bulletins issued by the Office of Juvenile Rehabilitation. [Order 899, § 388-320-095, filed 1/25/74.]

**WAC 388-320-100 Public records available.** (1) All public records of the department as defined in WAC 388-320-020 are available for public inspection and copying pursuant to these rules except as otherwise provided in section 31, chapter 1, Laws of 1973 and WAC 388-320-150.

(2) Requests for any identifiable public record may be initiated at any local office of the department. [Order 899, § 388-320-100, filed 1/25/74.]

**WAC 388-320-110 Public records officer—State administrative office.** The department shall designate a public records officer to be located in the state administrative office. He shall be responsible for implementing the department's rules regarding release of public records, coordination of staff in this regard, and generally insuring compliance by the staff with the public records

disclosure requirements of chapter 1, Laws of 1973. The public records officer shall be responsible for any disclosure except where responsibility has been delegated to a local office as provided by WAC 388-320-115. The secretary of the department or his designee and the public records officer shall have exclusive authority to deny a request for disclosure of a public record. [Order 899, § 388-320-110, filed 1/25/74.]

**WAC 388-320-115 Public records officer—Local office.** (1) The department shall designate local office public records officer to be located in each local office of the department. The local office public records officer shall have authority to

(a) disclose information about individuals known to be local office except as limited by section 31, chapter 1, Laws of 1973 or by other laws and rules governing confidentiality of personal information in the department's records.

(b) make available for copying the rules and statements as defined in WAC 388-320-090, 388-320-092, 388-320-093, and 388-320-095 which are maintained in the local office to which the request is made.

(c) make available for copying or for free distribution informational material published by the department for use of the public and which is available in the local office to which the request is made.

(d) refer the inquirer to the department's state office public records officer when the requested material is not within the authority of the local office to disclose.

(e) refer the inquirer, or refer the request for information, to the state office public records officer when the request calls for extensive copying of material.

(2) The local office public records officer shall not have authority to deny a request for disclosure of a public record. [Order 899, § 388-320-115, filed 1/25/74.]

**WAC 388-320-120 Office hours.** Public records shall be available for inspection and copying during the customary office hours of the department. For the purposes of this chapter the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m. Monday through Friday, excluding legal holidays. [Order 899, § 388-320-120, filed 1/25/74.]

**WAC 388-320-130 Request for public records.** (1) In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization and prevent excessive interference with the essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained by members of the public upon compliance with the procedures specified in this section.

(2) A request shall be made in writing upon a form prescribed by the department which shall be available at its state and local administrative offices. The request shall include

(a) the name of the person requesting the record

(b) the time of day and calendar date on which the request is made

(c) the nature of the request

(d) an appropriate description of the record requested.

(3) The public records officer or staff member to whom the request is made shall assist the requestor to appropriately identify the public record requested.

(4) The request form shall be presented to the public records officer or if he is not available to any member of the department's staff during customary office hours. [Order 899, § 388-320-130, filed 1/25/74.]

**WAC 388-320-140 Fees—Inspection and copying.** No fee shall be charged for the inspection of public records. The department shall charge a fee per page of copy for providing copies of public records and for use of the department's copy equipment. The fee shall be the amount necessary to reimburse the department for its actual costs incident to such copying. [Order 899, § 388-320-140, filed 1/25/74.]

**WAC 388-320-150 Exemptions.** (1) The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 388-320-130 is exempt under the provisions of section 31, chapter 1, Laws of 1973 or federal or other state laws and regulations.

(2) Pursuant to section 26, chapter 1, Laws of 1973, the department reserves the right to delete identifying details when it makes available or publishes any public record, in any case in which there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy. The public records officer shall fully justify such deletion in writing. [Order 899, § 388-320-150, filed 1/25/74.]

**WAC 388-320-155 Denial of request.** Each denial of a request for a public record shall be accompanied by a written statement to the requestor clearly specifying the reasons for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. Such statement shall be sufficiently clear and complete to permit the secretary or his designee to review the denial in accordance with WAC 388-320-160. [Order 899, § 388-320-155, filed 1/25/74.]

**WAC 388-320-160 Review of denial.** (1) If a request for a public record is denied the state office public records officer shall immediately refer the denial of request to the secretary of the department for review. The secretary or his designee shall immediately decide the matter and either affirm or reverse such denial. If denial is reversed, notice shall be given promptly to the requestor and the requested public record made available.

(2) For purposes of judicial review, administrative remedies shall be considered exhausted at the end of the second business day following denial of inspection. [Order 899, § 388-320-160, filed 1/25/74.]

**WAC 388-320-170 Protection of public records.** Public records may be inspected only in the presence of a department public records officer or his designee. Inspection shall be denied and records shall be withdrawn

if the individual inspecting the records does so in a manner which will damage or substantially disorganize them or which interferes excessively with other essential functions of the department. [Order 899, § 388-320-170, filed 1/25/74.]

**WAC 388-320-180 Records index.** (1) The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records as specified in section 26(2) of chapter 1, Laws of 1973 because of the complexity and diversity of its operations and the resulting volume of correspondence, reports, surveys, staff studies and other materials.

(2) The department will make available for public inspection and copying all indexes which may at a future time be developed for agency use. [Order 899, § 388-320-180, filed 1/25/74.]

**WAC 388-320-190 Communications and submissions relating to public records.** All communications with the department relating to disclosure of public records, including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules, and requests for copies of the department's decisions and other matters shall be addressed as follows:

Public Records Officer  
Department of Social and Health Services  
P.O. Box 1788  
Olympia, Washington 98504

[Order 899, § 388-320-190, filed 1/25/74.]

**WAC 388-320-200 Adoption of form.** The department hereby adopts a form entitled "Request for Public Record" for use by all persons requesting inspection and/or copying of its records. The form may be secured from any office of the department. [Order 899, § 388-320-200, filed 1/25/74.]