

Program (WAC 365-22-010 through WAC 365-22-090) of the Planning and Community Affairs Agency. None of WAC 365-22-010 through WAC 365-22-090 pertain to or are applicable to the state administration of the local Section 8 Housing Assistance Payments Program. [Statutory Authority: Chapter 43.63A RCW. 79-03-004 (Order 79-02), § 365-60-020, filed 2/9/79.]

## Title 372 WAC

### POLLUTION CONTROL COMMISSION, WATER

#### Chapter

**372-20 Public sewage and industrial waste works.**

#### Chapter 372-20 WAC

### PUBLIC SEWAGE AND INDUSTRIAL WASTE WORKS

#### WAC

372-20-005 through 372-20-110 Repealed.

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

- 372-20-005 Sewage works design guide. [Rule .04.221, adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48-110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-010 Definitions. [Rule .04.233, adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-020 All plans may be submitted to pollution control commission. [Rule .04.230 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-025 Law relating to approval of comprehensive plan for sewer districts. [Rule .04.238, adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-030 Plan requirements generally—Sewerage systems. [Rule .04.230 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-040 Plan requirements generally—Sewage treatment works. [Rule .04.230 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-050 Inspection of systems and plants during construction. [Rule .04.230 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-055 Compliance with RCW 90.48.110. [Rule .04.230 (part), adopted 12/3/53.] Repealed by 79-02-033

- (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-060 Sewerage systems\*—Report, general layout map and specifications. [Rule .04.232 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48-110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-070 Sewage treatment works\*—Reports and plans to PCC. [Rule .04.232 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-080 Requirements for engineers. [Rule .04.232 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-090 The operation of sewage treatment plants. [Rule .04.232 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-100 Industrial waste treatment works—Reports and plans.\* [Rule .04.232 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.
- 372-20-110 Operation of industrial waste treatment plants. [Rule .04.232 (part), adopted 12/3/53.] Repealed by 79-02-033 (Order DE 78-10), filed 1/23/79. Statutory Authority: RCW 90.48.110. Later promulgation, see chapter 173-240 WAC. See also chapter 248-92 WAC.

**WAC 372-20-005 through 372-20-110 Repealed.**  
See Disposition Table at beginning of this chapter.

## Title 388 WAC

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

#### Chapters

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- 388-33 Aid to families with dependent children and continuing general assistance--Grant or vendor payment.
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- 388-35 Noncontinuing general assistance--Eligibility--Payment--Standards.
- 388-37 General assistance--Eligibility--Standards of assistance--Payment.
- 388-42 Funeral expense.
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- 388-63 Family home for retarded adults.
- 388-70 Child welfare services--Foster care--Adoption services--Services to unmarried parents.
- 388-73 Child care agencies--Adult family homes minimum licensing requirements.
- 388-75 Minimum requirements for licensing child care agencies and maternity services.
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- 388-88 Medical care--Nursing home care.
- 388-90 Skilled nursing home care in state schools for retarded persons.
- 388-91 Medical care--Drugs.
- 388-92 Medical care for persons receiving benefits under Title XVI of Social Security Act--Eligibility--Income and resource standards.
- 388-93 Medical care for grandfathered recipients.
- 388-95 Mental institutions--Age--Medical assistance--Eligibility.
- 388-96 Nursing home accounting and reimbursement system.

### Chapter 388-08 WAC

#### PRACTICE AND PROCEDURE--FAIR HEARING

- WAC
- 388-08-406 Special procedures for food stamp hearings.
- 388-08-407 Time limit for rendering decision.
- 388-08-408 Initial decision.
- 388-08-409 Petition for review by hearing authority.
- 388-08-410 Repealed.
- 388-08-413 Procedure on review by hearing authority.

- 388-08-414 Form, content, and effective date of decision.

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

- 388-08-410 Form and content of decision. [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.] Repealed by 79-09-054 (Order 1426), filed 8/24/79. Statutory Authority: RCW 34.04.020.

**WAC 388-08-406 Special procedures for food stamp hearings.** The time limit for rendering a decision and the decision-making procedures set forth in WAC 388-08-407 through 388-08-413 shall not apply to hearings involving the food stamp program. Those hearings are governed by WAC 388-54-815. [Statutory Authority: RCW 34.04.020. 79-09-054 (Order 1426), § 388-08-406, filed 8/24/79.]

#### WAC 388-08-407 Time limit for rendering decision.

(1) A final decision shall be rendered within 75 days of the department's receipt of the request for a hearing, unless extended by a continuance of the hearing requested by or consented to by the appellant.

(2) The hearings examiner or hearing authority shall give first priority to those pending proceedings where the appellant has appealed a department decision:

- (a) denying an application for a benefit, or
- (b) terminating benefits, if benefits are not being continued pending the decision. [Statutory Authority: RCW 34.04.020. 79-09-054 (Order 1426), § 388-08-407, filed 8/24/79.]

**WAC 388-08-408 Initial decision.** (1) The hearings examiner who conducted the hearing shall write an initial decision. The hearings examiner shall file the original of the initial decision in the record of the proceedings and shall mail copies of the initial decision to the parties and their representatives.

(2) The initial decision shall automatically become the final decision of the secretary, if no petition for review is filed in accordance with WAC 388-08-409 within 15 days of mailing of the initial decision. [Statutory Authority: RCW 34.04.020. 79-09-054 (Order 1426), § 388-08-408, filed 8/24/79.]

**WAC 388-08-409 Petition for review by hearing authority.** (1) Within 15 days of mailing of the initial decision, either party may petition the hearing authority, in writing, for review of the initial decision. The petition for review shall set forth in detail the basis for the requested review, and shall be mailed postage prepaid to the office of hearings and to the other party at his/her last known address.

(2) The petition shall be based on any one of the following grounds materially affecting the substantial rights of a party:

- (a) Irregularity in the proceedings by which the moving party was prevented from having a fair hearing. This

includes misconduct by the prevailing party and misconduct or abuse of discretion by the hearings examiner.

(b) The findings of fact are unsupported by substantial evidence in view of the entire record,

(c) Errors of law,

(d) Need for clarification in order for the parties to implement the decision.

(3) The responding party may respond in writing to the petition for review. The response shall be mailed postage prepaid to the office of hearings and to the other party at his/her last known address. [Statutory Authority: RCW 34.04.020, 79-09-054 (Order 1426), § 388-08-409, filed 8/24/79.]

**WAC 388-08-410 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-08-413 Procedure on review by hearing authority.** (1) A petition for review shall be granted only if, in the reasoned opinion of the hearing authority, one of the grounds for review set forth in WAC 388-08-409(2) is shown. Otherwise, the petition for review shall be denied and the initial decision shall be the final decision of the secretary as of the date of denial of the petition(s) for review.

(2) In determining whether to grant review and in reviewing the initial decision, the hearing authority shall consider the initial decision, the petition(s) for review, the record or any part thereof and any additional evidence submitted by the agreement of both parties in accordance with WAC 388-08-413(4).

(a) The 15-day time limit established by WAC 388-08-409 for filing a petition for review of an initial decision shall be waived where the petitioner demonstrates good cause for failure to file a timely petition for review. Good cause includes mistake, inadvertence, and excusable neglect on the part of petitioner or unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review. Upon a showing of good cause either party may petition for review of an initial decision within 30 days of the date the initial decision becomes final.

(b) The 15-day time limit established by WAC 388-08-409 for filing a petition for review of the initial decision shall be waived where petitioner demonstrates that the initial decision was not received by petitioner. In such case the petitioner may petition for review of the initial decision within a reasonable period of time.

(3) If review is granted, the hearings examiner's initial findings of fact, conclusions of law, and decision shall not be modified by the hearing authority unless, in the reasoned opinion of the hearing authority:

(a) Irregularity in the proceedings occurred by which the moving party was prevented from having a fair hearing. This includes misconduct by the prevailing party and misconduct or abuse of discretion by the hearing examiner and/or

(b) The findings of fact are unsupported by substantial evidence in view of the entire record and/or

(c) The application of law in the conclusions is erroneous and/or

(d) There is need for clarification in order for the parties to implement the decision.

(4) The hearing authority may accept additional evidence to correct omissions in the record, but only after notice to and agreement by both parties.

(5) The hearing authority may remand the proceedings to the hearings examiner for additional evidence or argument if:

(a) Neither party cited the law correctly applicable to the issue(s) defined at the hearing and additional evidence or argument is needed for the hearing authority to reach a reasoned decision. Nothing in this subsection shall be construed to allow the hearing authority to remand the case to consider additional grounds for denial, termination or ineligibility for assistance which were not alleged by the department at the hearing.

(b) Irregularity in the proceedings occurred by which the party seeking review was prevented from having a fair hearing and additional evidence or argument is necessary to cure the irregularity or

(c) The hearing authority considers a remand necessary and both parties assent to the remand.

(6) If review is granted, the hearing authority shall render a reasoned decision affirming, reversing, modifying, or remanding the initial decision.

(7) That decision shall be final on the date of filing and shall be the final decision of the secretary. The hearing authority shall file the original of the final decision in the record of the proceedings and shall mail copies to the parties and their representatives. [Statutory Authority: RCW 34.04.020, 79-09-054 (Order 1426), § 388-08-413, filed 8/24/79.]

**WAC 388-08-414 Form, content, and effective date of decision.** (1) Every recommended decision, proposal for decision, initial decision, and final decision shall be in writing and:

(a) Be correctly captioned as to the name of the parties and the name of the proceedings.

(b) Designate all parties,

(c) Include a concise statement of the issue(s) to be considered,

(d) The decision shall contain findings of fact and conclusions of law as to each contested issue of fact and law. The findings must be based on evidence adduced at the hearing; the conclusions must be justified by the findings; and the order must be supported by the findings and conclusions.

(2) Decisions shall be rendered without ex parte communications and shall be based exclusively on evidence and argument introduced at the hearing or submitted on review in accordance with WAC 388-08-409(1) and (3) and WAC 388-08-413(4).

(3) The effective date of the final decision reversing the CSO is the date of the incorrect action or such other date as may be provided under department rules.

(4) The final decision shall receive immediate attention and processing by the CSO. [Statutory Authority: RCW 34.04.020, 79-09-054 (Order 1426), § 388-08-414, filed 8/24/79.]

**Chapter 388-11 WAC**  
**CHILD SUPPORT--OBLIGATIONS**

**WAC**

388-11-010	Statutory basis.
388-11-011	Definitions.
388-11-015	Credits allowable in satisfaction of debt.
388-11-020	Repealed.
388-11-030	Notice and finding of financial responsibility.
388-11-040	Service of notice and finding of financial responsibility.
388-11-045	Service within sixty days—Tolling.
388-11-050	Failure to make request for hearing.
388-11-055	Petition for hearing after twenty days—Stay.
388-11-060	Request for hearing.
388-11-065	Responsible parent to show cause—Affirmative defenses—Burden of proof.
388-11-090	Hearing examiner.
388-11-100	Duty of hearing examiner.
388-11-105	Review of initial decision.
388-11-110	Repealed.
388-11-115	Fraud—Vacation of decision.
388-11-120	Default.
388-11-130	Decision and order after hearing.
388-11-135	Service.
388-11-140	Modification.
388-11-145	Notice to appellant.
388-11-150	Consent order.
388-11-155	Duration of obligation.
388-11-160	Repealed.
388-11-170	Collection of debts determined.
388-11-180	Procedural reference.
388-11-190	Scale of minimum contributions.

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

388-11-020	Original determinations. [Order 1054, § 388-11-020, filed 9/25/75; Order 875, § 388-11-020, filed 11/16/73.] Repealed by 80-01-026 (Order 1465), filed 12/14/79. Statutory Authority: RCW 74.08.090.
388-11-110	Determination of future liability. [Order 875, § 388-11-110, filed 11/16/73.] Repealed by 80-01-026 (Order 1465), filed 12/14/79. Statutory Authority: RCW 74.08.090.
388-11-160	Procedure for reconsideration of decision, clarification of decision or for rehearing. [Order 1054, § 388-11-160, filed 9/25/75; Order 875, § 388-11-160, filed 11/16/73.] Repealed by 78-07-015 (Order 1305), filed 6/15/78. Statutory Authority: RCW 74.08.090.

**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 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 chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], RCW 74.20A.030, 74.20.040, 26.16.205 and/or 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. [Statutory Authority:

RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-010, filed 12/14/79; Order 1054, § 388-11-010, filed 9/25/75; Order 875, § 388-11-010, filed 11/16/73.]

**WAC 388-11-011 Definitions.** (1) "Locate" for purposes of this chapter shall mean service of the notice and finding of financial responsibility in a manner prescribed by WAC 388-11-040.

(2) "Reasonable efforts to locate" shall mean any of the following actions taken on a case:

(a) Mailing of the notice and finding of financial responsibility by certified mail, return receipt requested to an address, reasonably believed by office of support enforcement to be a mailing address of the responsible parent, and presentation of said notice by the United States Postal Service to the address prior to the expiration of the sixty-day period specified in WAC 388-11-065(9) without effecting a locate of the responsible parent; or

(b) Referral to a sheriff, other server of process or locate service or other agent or employee of the department for locate activities if the responsible parent is not located under (a) above or if no known mailing address exists but the information which office of support enforcement has, reasonably indicates that the responsible parent can be located; or

(c) When service cannot be accomplished, tracing activity as stated below:

(i) Checking of local telephone directories and attempts by telephone or mail to contact the applicant/recipient, applicant/custodian, relatives of the responsible parent, past or present employers or the postal authorities when appropriate;

(ii) Contacting state agencies, union, financial, or fraternal organizations available on the local level to which the responsible parent is known to have had contact or membership.

(d) Referral to state parent locator service when tracing efforts under (c) above are exhausted;

(e) Referral to the attorney general, a prosecuting attorney or the internal revenue service for specific legal or collection action.

(3) "The date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought" shall mean the date payment of an AFDC-R, AFDC-E, AFDC-FC or state only foster care grant is authorized.

(4) "Department" means the state department of social and health services. For purposes of chapter 388-11 WAC, unless otherwise clearly indicated, "department" shall mean the chief, office of support enforcement or his designee.

(5) "Secretary" means the secretary of the department of social and health services, or the secretary's designee or authorized representative, which for purposes of chapter 388-11 WAC shall mean the designee of the secretary, the chief, office of hearings or his designee.

(6) "Hearing examiner" shall mean the hearing examiner employed by the department of social and health



services who hears the testimony and makes the initial decision under chapter 388-11 WAC.

(7) "Dependent child" means any person under the age of twenty-one who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.

(8) "Superior court order" means any judgment or order of the superior court of the state of Washington ordering payment of a set or determinable amount of support moneys, or an order of a court of comparable jurisdiction of another state ordering payment of a set or determinable amount of support moneys. Orders of the superior court which fail to expressly require payment of support by a responsible parent or orders which fail to specifically relieve the responsible parent of the support obligation shall not constitute a superior court order.

(9) "Responsible parent" means the natural parent, adoptive parent, or stepparent of a dependent child.

(10) "Stepparent" means the present spouse of the person who is either the mother, father, or adoptive parent of a dependent child, and such status shall exist and continue as provided for by RCW 26.16.205 until the relationship is terminated by death or dissolution of marriage.

(11) "Support moneys" means any moneys paid to satisfy a support obligation whether denominated as child support, spouse support, alimony, maintenance, or any other such moneys intended to satisfy an obligation for support of any person or satisfaction in whole or in part of arrears or delinquency on such an obligation.

(12) "Future" support or "future and current" support or "future/current" support shall mean support moneys paid to satisfy the support obligation for the instant or present month as opposed to satisfaction of support obligations owed for previous and past months which, having been unpaid, are delinquent.

(13) "Debt," "arrears," "delinquency," "past support," shall all mean the amount owed for a period of time prior to the instant month but is owed for a period of time in the past.

(14) "Need" means the necessary costs of food, clothing, shelter, and medical attendance for the support of a dependent child or children.

(15) "Good cause" means that there is substantial reason or legal justification for delay, including a showing of those grounds enumerated in RCW 4.72.010 and CR60 and allegation is made of a defense under WAC 388-11-065.

(16) "Assignment pursuant to RCW 74.20A.040" shall mean the assignment made by an applicant/custodian of support rights pursuant to WAC 388-14-310.

(17) Fraud for the purposes of WAC 388-11-115 means (a) the representation of the existence or nonexistence of a fact; (b) its materiality; (c) its falsity; (d) the speaker's knowledge of its truth; (e) his/her intent that it should be acted on by the person to whom it is made; (f) ignorance of its falsity on the part of the person to whom it is made; (g) the latter's reliance on the truth of the representation; (h) his/her right to rely upon it; and (i) his/her subsequent damage. [Statutory

Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-011, filed 12/14/79.]

**WAC 388-11-015 Credits allowable in satisfaction of debt.** Pursuant to RCW 74.20.101 after a notice and finding of financial responsibility has been served on the responsible parent, satisfaction in whole or in part of the debt may be obtained only by cash, check, or money order payments through the office of support enforcement. After service of said notice, any attempt to satisfy the debt by providing the caretaker, custodian, vendor or other third party with cash, check, money order or in-kind, noncash, nonnegotiable items or services, including payments to for any item vendors or other third parties of items included in the public assistance standards, is conclusively presumed to be gifts and will not be credited against the debt. Family necessities provided directly to the caretaker/custodian, or children, or provided through vendors or third parties, 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 which are not food, clothing, shelter or medical attendance: *Provided, further,* That shelter payments made may not be credited against any debt for any period determined under chapter 388-11 WAC 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 greater. Any credit given shall be classified as a payment of child support and shall be treated consistent with rules of eligibility in effect at the time of 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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-015, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-015, filed 6/15/78; Order 1054, § 388-11-015, filed 9/25/75.]

**WAC 388-11-020 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-11-030 Notice and finding of financial responsibility.** (1) The notice and finding of financial responsibility shall set forth the office of support enforcement's finding of responsibility, the amount which the office of support enforcement alleges that the responsible parent owes as an accrued debt and a statement of the demand for payment thereon. Where appropriate the notice and finding of financial responsibility shall also set forth the office of support enforcement's finding of responsibility as to the amount the responsible parent should pay in the future as periodic future support for such period of time as the child or children are in need.

(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 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, (s)he shall have a right, for not more than twenty days from date of service, to request 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;

(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, in a timely manner, the support debt and/or payments stated in the notice and finding of financial responsibility shall be assessed and determined and ordered in accordance with the finding of responsibility 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 and ordered 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.

(g) A statement that, after service of the notice, all payments made which are intended to satisfy a current and/or accrued child support obligation alleged in the notice must be made directly to the office of support enforcement. Payments made to any other party will not be credited against the debt. Whether or not such payment is in cash, check, money order, in-kind services, merchandise or anything else of value. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-030, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-030, filed 6/15/78; 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 or by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-040, filed 12/14/79; Order 1054, § 388-11-040, filed 9/25/75; Order 875, § 388-11-040, filed 11/16/73.]

**WAC 388-11-045 Service within sixty days--Tolling.** If the notice and finding of financial responsibility is not served within sixty days from said date, the department shall lose the right to reimbursement of payments made after the sixty days and before the date of service

of the notice: *Provided*, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty day period is tolled until such time as the debtor can be located. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-045, filed 12/14/79.]

**WAC 388-11-050 Failure to make request for hearing.** If the responsible parent fails to object, in a timely manner, to the finding of responsibility of the office of support enforcement, such findings as are stated in the notice and finding of financial responsibility shall become final subject to the provisions of WAC 388-11-055. The debt, as stated, and/or the future periodic support payments to prospectively satisfy liability under chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], RCW 74.20A.030, 74.20.040 or 26.16.205, and/or 74.20A.250 shall be subject to collection action. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-050, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-050, filed 6/15/78; Order 1054, § 388-11-050, filed 9/25/75; Order 875, § 388-11-050, filed 11/16/73.]

**WAC 388-11-055 Petition for hearing after twenty days--Stay.** (1) The responsible parent may, at any time, upon a showing of good cause for the failure to make a timely request for hearing, petition the secretary or the secretary's designee for a hearing, as provided for but not previously granted pursuant to WAC 388-11-060, 388-11-065, and 388-11-100. A copy of said petition shall also be served by certified mail, return receipt requested, or by service in the manner of a summons in a civil action on the district office of the office of support enforcement. The filing of such petition shall not stay any collection action being taken under chapter 74.20A RCW. The petition shall state the grounds alleged by the responsible parent to constitute good cause for the failure to make a timely request for hearing.

(2) The granting of a request for a hearing under (1) above shall operate as a stay on any collection action to collect moneys due under the original notice.

(3) On petition of the responsible parent or office of support enforcement, a hearing may be scheduled to consider:

- (a) Whether good cause exists to grant a hearing;
- (b) Setting of temporary current and future support;
- (c) Settlement of any or all of the issues;
- (d) Such other matters as may aid in disposition of the proceeding; and

(e) If agreed to by the parties to hear the merits of the responsible parent's objections to the notice and finding of financial responsibility.

Notice of this hearing shall be mailed to the parties by certified mail, not less than ten days prior to the scheduled date of the hearing. The petition for setting temporary current and future support may be brought at any time prior to the final decision. The hearing examiner shall, in writing, order payment of temporary, current and future support in an amount determined

pursuant to the scale of minimum contributions in WAC 388-11-190 unless such payment is contrary to law. Payment shall be ordered to be paid beginning with the month in which the petition for an untimely hearing is granted.

(4) In the event the responsible parent does not make payment of the temporary current and future support as ordered, the office of support enforcement may take collection action pursuant to chapter 74.20A RCW during the pendency of the hearing or thereafter to collect any amounts owing under the temporary order.

(5) Moneys withheld as a result of collection action in effect at the time of granting of the request for the hearing shall be delivered to the office of support enforcement and shall be held in trust by the office of support enforcement pending the final order of the secretary or during the pendency of any appeal to the courts. Temporary current and future support paid, or collected during the pendency of the hearing or appeal shall be disbursed when received by the office of support enforcement.

(6) If the final decision of the department or the courts on appeal is that the department has collected an amount from the responsible parent greater than such parents past support debt, other than temporary current and future support, such excess shall promptly be refunded to such parent. [Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-11-055, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-055, filed 6/15/78.]

**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 only until the final decision on such hearing. Further stays may be obtained only pursuant to RCW 34.04.130(3). If an objection is received, the secretary or the secretary's designee 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. The 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. [Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-11-060, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-060, filed 6/15/78; 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 held 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 an initial 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) 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 only as to debt accrued prior to September 1, 1979: *Provided, further*, 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;

- (6) That the applicant is not a responsible parent;
- (7) Inability to pay the amount determined;

(8) Lack of need and/or debt pursuant to RCW 26.16.205: *Provided*, That the amount determined by reference to the schedule of suggested minimum contributions in WAC 388-11-190, based on the earnings, resources, and property of the responsible parent shall be a rebuttable presumption of the responsible parent's ability to pay and the need of the family on whose behalf action is being taken. If said presumption is rebutted the office of support enforcement shall be afforded reasonable opportunity to present evidence of actual need with the right to a continuance on request to present said evidence: *Provided further*, Said rebuttable presumption shall apply whether or not the child or children are recipients of or applicants for public assistance. The responsible parent shall be presumed to have no ability to pay from income received from AFDC, SSI, or continuing general assistance;

- (9) Discharge in bankruptcy; and

(10) Any other matter constituting an avoidance or affirmative defense to the notice and finding of financial responsibility.

Except as provided for in chapter 388-08 WAC for discovery, the hearing examiner or review examiner shall not require the office of support enforcement to produce or obtain information, documents or witnesses to assist the responsible parent in proof of defenses raised pursuant to WAC 388-11-065 except for that nonconfidential information or documents which the office of support enforcement has in its possession. [Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-11-065, filed 12/14/79; 78-07-015 (Order 1305), § 388-

11-065, filed 6/15/78; Order 1054, § 388-11-065, filed 9/25/75.]

**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 or hearing examiner acting as designee of the secretary for the purpose of review of decisions pursuant to WAC 388-11-100 and 388-14-375 shall hear or review a contested case provided for by RCW 74.20A.055, when it has been requested by any party or representative that a different hearing examiner be assigned to hear or review 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. [Statutory Authority: RCW 74.08.090, 78-07-015 (Order 1305), § 388-11-090, filed 6/15/78; 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 chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], RCW 74.20A.030, 74.20A.250 and/or 26.16.205. The hearing examiner shall also determine the amount of periodic payments to be made to satisfy past, present, or future liability under chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], RCW 74.20A.250, 74.20.040, 74.20A.030 and/or 26.16.205, and shall provide in his order that failure to make periodic payments in a timely manner will make the entire arrearage collectable by the office of support enforcement.

In all cases in which the applicant-custodian has made assignment pursuant to RCW 74.20.040 for non-assistance support enforcement services, the hearing examiner shall determine the future, current and past support obligation not limited to the amount of any public assistance standards or grant but based upon need and ability to pay pursuant to RCW 26.16.205. Whenever there has been no assignment made pursuant to 42 USC 602 (a) (26) (A), or chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330] or RCW 74.20.040, the hearing examiner shall determine the liability and the responsibility, if any, of the responsible parent as to past, future and current support obligation based upon RCW 74.20A.030 and 74.20A.250. The hearing examiner shall include in his consideration:

- (1) All earnings and income resources of the responsible parent, including real and personal property;
- (2) The earnings potential of the responsible parent;
- (3) The reasonable necessities of the responsible parent;

- (4) The ability of the responsible parent to borrow;
- (5) The needs of the child for whom the support is sought;

(6) The amount of assistance which would be paid to the child under the full standard of need of the state's public assistance plan;

- (7) The existence of other dependents; and

(8) That the child, for whom support is sought, benefits from the income and resources of the responsible parent on an equitable basis in comparison with any other minor children of the responsible parent.

The hearing examiner shall also include in his consideration 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 a greater or lesser amount than the amount stated or computed in reference to the scale in WAC 388-11-190.

The findings of fact as to unusual circumstances 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 initial 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 has a right to orally 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.

After evidence has been presented at a hearing conducted by a hearing examiner, the hearing examiner shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon.

The hearing examiner shall file the original of the initial decision and order signed by him with the secretary or his designee, and copies thereof shall be mailed by the hearing examiner to the office of support enforcement and to the appellant by certified mail to the last known address of the party. [Statutory Authority: RCW 74.08-.090, 80-01-026 (Order 1465), § 388-11-100, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-100, filed 6/15/78; Order 1054, § 388-11-100, filed 9/25/75; Order 875, § 388-11-100, filed 11/16/73.]

**WAC 388-11-105 Review of initial decision.** Within thirty days of service of the initial decision, either the appellant or the office of support enforcement may petition the secretary or the secretary's designee, in writing, for review of the initial decision and order. Such petition for review shall set forth in detail the basis for the requested review, and shall be mailed to the other party by certified or registered mail to the last known address of the party.

The petition shall be based on any one of the following causes materially affecting the substantial rights of the petitioner:

(1) 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;

(2) Misconduct of prevailing party;

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

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

(5) 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;

(6) Error in mathematical computation;

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

(8) That the moving party is unable to perform according to the terms of the order without further clarification;

(9) That substantial justice has not been done;

(10) Fraud or misstatement of facts by any witness, pertaining to any defense provided for in WAC 388-11-065;

(11) Clerical mistakes in the decision arising from oversight or omission; and/or

(12) That the decision and order entered, because the responsible parent failed to appear at the hearing, should be vacated and the matter be remanded upon showing of the grounds enumerated in RCW 4.72.010 or CR60.

In the event no petition for review is made as provided herein by any party, the initial decision and order of the hearing examiner shall be final as of the date of filing and becomes the decision and order of the department. No appeal may be taken therefrom to the courts and the debt created is subject to collection action.

After receipt of a petition for review, the secretary or the secretary's designee shall consider the initial decision and order, the petition or petitions for review, the record or any part thereof and such additional evidence and argument as he may in his or her discretion allow. The secretary or the secretary's designee may remand the proceedings to the hearing examiner for additional evidence or argument. The secretary or the secretary's designee may deny review of the initial decision and order and thereupon deny the petition or petitions at which time the initial decision and order shall be final as of the date of said denial and all parties shall forthwith be notified, in writing, of said denial by certified mail to the last known address of the parties. Unless the petition is denied, the secretary or the secretary's designee shall review the initial decision and order and shall make the final decision and order of the department. The final decision and order shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law. The initial findings of fact, conclusions of law, and decision and order shall not be modified unless

the findings of fact are unsupported by substantial evidence in view of the entire record and/or unless the applications of law in the initial decision are incorrect in the reasoned opinion of the review examiner. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal by certified mail to the last known address of the party. The decision and order shall authorize collection action, as appropriate, under chapter 74.20A RCW. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-105, filed 12/14/79.]

**WAC 388-11-110 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-11-115 Fraud--Vacation of decision.** (1) Any initial decision, final decision or consent order may be vacated if the decision or order was based upon fraud by any witness or party.

(2) The motion to vacate shall be filed within a reasonable period after the date that the fraud has been discovered or should have been discovered. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-115, filed 12/14/79.]

**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 an initial 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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-120, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-120, filed 6/15/78; 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 an initial decision determining liability and responsibility and/or future periodic support payments. The determination of the hearing examiner entered pursuant to this section if not reviewed, or the final decision if there is a review shall be entered as a decision and order and shall limit the support debt under chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], RCW 74.20A.030, 74.20.040 and/or 26.16-.205 and/or 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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-130, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-130, filed 6/15/78; Order 875, § 388-11-130, filed 11/16/73.]

**WAC 388-11-135 Service.** Service of the decision and order pursuant to WAC 388-11-120 or 388-11-130

shall be by mailing a copy of the decision and order to the last known address of the appellant by certified mail, and by mailing a copy of said decision and order to the last known address of appellant's attorney or other representative at the hearing, if any. [Statutory Authority: RCW 74.08.090. 78-07-015 (Order 1305), § 388-11-135, filed 6/15/78.]

**WAC 388-11-140 Modification.** Based upon a showing of good cause and a material change in circumstances, either the responsible parent or the office of support enforcement may petition the secretary or the secretary's designee to issue an order requiring the responding party to show cause why a decision previously entered determining responsibility for periodic future support payments, or a final determination for periodic future support payments pursuant to WAC 388-11-050, ought not be prospectively modified. The petition must be accompanied by a supporting affidavit setting forth the particular facts relied upon. On receipt of the petition and affidavit, the secretary or the secretary's designee shall issue to the petitioner the show cause order setting forth the time, date, and place of the show cause hearing.

The hearing 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.

The petitioner shall serve the responding party with a copy of the petition, affidavit, and show cause order in the manner of a summons in a civil action or by certified mail, return receipt requested.

An order to appear and show cause under this modification provision may not issue unless the previous decision of which modification is requested was entered pursuant to RCW 74.20A.055 and there is no superior court order for support. The hearing examiner, on petitions to modify, shall consider the standards set forth in WAC 388-11-100. If the responding party fails to appear at the hearing, the hearing examiner shall grant relief as a default order based upon the prayer for relief in the petition and affidavit. Within thirty days of entry of the default order, the defaulting party may petition the secretary or the secretary's designee pursuant to WAC 388-11-105 to vacate the default order upon a showing of any of the grounds enumerated in RCW 4.72.010 or CR60. If the petitioner fails to appear at the hearing, the hearing examiner shall enter an order dismissing the petition for modification. 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 the entry of the order. Any decision and order under this section shall be an initial decision by the hearing examiner subject to a petition for review by the secretary or the secretary's designee pursuant to WAC 388-11-105.

It shall not be necessary for the responsible parent or the office of support enforcement to show material change of circumstances if prospective modification is sought as to a final determination for periodic future

support payments pursuant to WAC 388-11-050. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-140, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-140, filed 6/15/78; Order 1054, § 388-11-140, filed 9/25/75; Order 875, § 388-11-140, filed 11/16/73.]

**WAC 388-11-145 Notice to appellant.** It shall be the responsibility of the appellant to notify the department of his or her mailing address at the time the request for hearing is made and also to notify the department of any subsequent change of mailing address during the pendency of the appeal including any review by the courts.

Whenever the department has notified the appellant of this responsibility, mailing by the department by certified mail to the appellant's last known address constitutes service of notice under chapter 388-11 WAC. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-145, filed 12/14/79.]

**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 for modification wherein a debt is claimed pursuant to chapter 171, sections 17 and/or 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], RCW 74.20.040, 74.20A.030, 26.16.205 and/or 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 office of support enforcement. 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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-150, filed 12/14/79; Order 875, § 388-11-150, filed 11/16/73.]

**WAC 388-11-155 Duration of obligation.** The obligation established pursuant to these rules shall continue in effect until superseded by a superior court order, modified pursuant to WAC 388-11-140, vacated pursuant to WAC 388-11-115 or until the child attains the age of majority or is sooner emancipated, or is self-supporting, married, or member of the armed forces of the United States. The obligation shall cease to accrue on the death of the child or the responsible parent, or if the responsible parent is a stepparent when the marriage is dissolved under chapter 26.09 RCW or under comparable procedures for divorce or dissolution of marriage. Provided that such obligation shall not be owed for the period of time during which the child is in the lawful physical custody of the responsible parent other than for



purposes of visitation. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-155, filed 12/14/79.]

**WAC 388-11-160 Repealed.** See Disposition Table at beginning of this chapter.

**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 or periodic future support obligation has not been complied with, the accrued debt, not paid, and any current delinquency, shall become due in full and the portion of the 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. [Statutory Authority: RCW 74.08.090. 78-07-015 (Order 1305), § 388-11-170, filed 6/15/78; 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 WAC 388-11-065(5) other provisions of the Washington Administrative Code shall be applied. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-180, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-180, filed 6/15/78; Order 1054, § 388-11-180, filed 9/25/75; Order 875, § 388-11-180, filed 11/16/73.]

**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).

The rates are twenty-four percent of net income for one child, thirty-five percent of net income for two children, forty-two percent of net income for three children

and forty-eight percent of net income for four or more children. Minimum contribution shall be calculated by the following steps:

(1) Add the number of children named in the notice and finding of financial responsibility to the natural, adopted, and/or stepchildren living with the responsible parent and select the applicable rate for that number of children;

(2) Multiply the total net income of the responsible parent by the rate selected in subsection (1) above;

(3) Divide the result by the total number of children determined pursuant to subsection (1) above to obtain the proportionate share that should be paid for one child;

(4) Multiply this by the number of children named in the notice and finding of financial responsibility to obtain the minimum contribution the responsible parent should make for support of his children.

"Income" includes all payment of moneys to the responsible parent, including, if married, all payment of moneys to the marital community of a responsible parent from any sources whatsoever. "Net income" is defined for purposes of this scale as all income of the responsible parent, including, if married, all income available to the marital community of which the responsible parent is a member remaining after the deduction from that income of any amount required by law to be withheld. Moneys paid for support of natural or stepchildren living with and being supported by the responsible parent or the marital community of which he is a member including but not limited to child support, SSI, OASI, shall be added to the net income of the responsible parent without deduction of any amounts prior to determination of the proportionate share for each child in subsection (2) of this section. Other available resources, real and personal property available and/or saleable and income therefrom including the ability to borrow and the earnings potential of the responsible parent shall be considered in determining minimum contributions. Contributions shall not, except as provided for in WAC 388-11-100(5) 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. [Statutory Authority: RCW 74.08.090. 78-07-015 (Order 1305), § 388-11-190, filed 6/15/78; Order 1119, § 388-11-190, filed 5/13/76; Order 875, § 388-11-190, filed 11/16/73.]

**Chapter 388-13 WAC**

**RECOVERY OF SUPPORT PAYMENTS**

**WAC**

388-13-010	Debt, assignment, recoupment, set-off.
388-13-020	Notice of support debt.
388-13-030	Service of notice of support debt.
388-13-040	Failure to make answer or request for hearing.
388-13-050	Petition for hearing after twenty days—Stay.
388-13-060	Timely request for hearing.
388-13-070	Hearing—Initial decisions.
388-13-080	Review of initial decision.
388-13-085	Collection action.



388-13-090	Limitation on proceeding.
388-13-100	Acknowledgment of debt.
388-13-110	Default.
388-13-120	Procedural reference.

**WAC 388-13-010 Debt, assignment, recoupment, set-off.** (1) Chapter 171, sections 17 and 18, Laws of 1979 ex. sess. [RCW 74.20.320 and 74.20A.270], provide that a custodian of children or other person who receives support moneys which moneys were paid, in whole or in part, in satisfaction of a support obligation owing to the department pursuant to 42 USC 602(a)(26)(A), chapter 171, sections 17 and 22, Laws of 1979 ex. sess., or RCW 74.20A.030 has a duty to remit said moneys to the office of support enforcement within eight days of receipt by the custodian or other person and is indebted to the department in an amount equal to the amount of the support money received and not remitted.

(2) By not remitting support moneys described in subsection (1) of this section, a custodial parent or other person is deemed, without the necessity of signing any document, to have made an irrevocable assignment to the department of an equal amount of any support delinquency not already assigned to the department, but owing to the custodial parent or other person, or an equal amount of any support delinquencies which may accrue in the future. The office of support enforcement is authorized to utilize the collection procedures of chapter 74.20A RCW to collect this assigned delinquency, satisfying the obligation owed under subsection (1) of this section by the custodial parent or other person.

(3) The office of support enforcement may also make a set-off to effect satisfaction of the debt under subsection (1) of this section from support moneys in its possession or in the possession of a county clerk or other forwarding agent if said moneys were paid to satisfy a support delinquency.

(4) Action may be taken alternatively or simultaneously under subsections (1), (2) and (3) of this section but in no event may the department recoup and retain more moneys than the debt described under subsection (1) of this section, refunding the excess, without deduction of fees, to the custodian of the children.

(5) The custodial parent or other person shall be given an accounting of actions taken under subsections (2) or (3) of this section. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-010, filed 12/14/79.]

**WAC 388-13-020 Notice of support debt.** The notice of support debt shall set forth:

(1) The amount of support moneys claimed by the department as property of the department by assignment, subrogation or by operation of law or legal process under chapter 74.20A RCW;

(2) The legal basis for the claim of ownership by the department;

(3) A description of the person, firm, corporation, association or political subdivision who is or has been in possession of the support moneys together with sufficient detail to enable identification of the moneys in issue;

(4) A statement that, effective with the date of service of the notice, all moneys not yet disbursed or spent and all like moneys to be received in the future are deemed to be impounded and shall be held in trust pending answer to the notice and any hearing which is requested;

(5) A statement that the notice shall be answered, under oath and in writing, within twenty days of the date of service of the notice;

(6) A statement that the answer made under subsection (5) of this section shall include true answers to the matters inquired of and that said answer shall also acknowledge the department's right to the moneys or request an administrative hearing to determine ownership of the moneys in issue;

(7) A statement that the burden of proof in said hearing is on the department to establish ownership of the support moneys claimed;

(8) A statement that, if the person, firm, corporation, association or political subdivision or officer or agent thereof fails to answer and/or make a request for hearing in a timely manner, the department's claim shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 74.20A RCW; and

(9) A statement that a 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: *Provided*, That no collection action may be taken against a recipient of public assistance during the period of time the recipient remains on assistance. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-020, filed 12/14/79.]

**WAC 388-13-030 Service of notice of support debt.** The notice of support debt shall be served on the person, firm, corporation, association, or political subdivision or any officer or agent thereof by the office of support enforcement or its agent in the manner prescribed for the service of a summons in a civil action, or by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-030, filed 12/14/79.]

**WAC 388-13-040 Failure to make answer or request for hearing.** If the person, firm, corporation, association, or political subdivision or any officer or agent thereof served with a notice of support debt fails to answer, in a timely manner, the claim of the department shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 74.20A RCW. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-040, filed 12/14/79.]

**WAC 388-13-050 Petition for hearing after twenty days--Stay.** (1) The person, firm, corporation, association, political subdivision or any officer or agent thereof served with a notice of support debt at any time within one year from the date of service of said notice may petition the secretary or the secretary's designee for a

hearing, as provided for but not previously granted pursuant to WAC 388-13-070, upon a showing of any of the grounds enumerated in RCW 4.72.010 or CR 60. A copy of said petition shall also be served by certified mail, return receipt requested, or by service in the manner of a summons in a civil action on the district field office of the office of support enforcement. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on an appeal made pursuant to chapter 34.04 RCW.

(2) Any moneys held and/or taken by collection action prior to the date of any such stay and any support moneys claimed by the department, including moneys to be received in the future, to which the department may have a claim, shall be held in trust pending the final decision and appeal, if any, to be disbursed in accordance with the final decision. The secretary or the secretary's designee shall condition the stay to provide for the trust.

(3) If a request for hearing 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 or her representative by certified mail.

The department shall notify the appellant that it is his or her responsibility to notify the department of his or her mailing address at the time of the request for hearing and also of any change of address after this request for hearing is submitted. Mailing by certified mail, return receipt requested, to the last address provided by the appellant shall constitute service pursuant to chapters 74.20A and 34.04 RCW.

The hearing shall be promptly scheduled within thirty days of the date of receipt of the request for hearing. 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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-050, filed 12/14/79.]

**WAC 388-13-060 Timely request for hearing.** Any debtor who objects to all or any part of a notice of support debt shall have the right, for not more than twenty days from the date of service of the notice of support debt, to request in writing, a hearing, which request shall be served upon the district office of the office of support enforcement by certified mail or by personal service. A request for hearing, pursuant to this section, shall be construed to be a general denial of liability to the department. The execution of the notice of support debt shall be stayed pending the final decision on such hearing. If a request for hearing 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 or her representative by certified mail.

The department shall notify the appellant that it is his or her responsibility to notify the department of his or her mailing address at the time of the request for hearing and also of any change of address after this request for hearing is submitted. Mailing by certified mail, return receipt requested, to the last address provided by the appellant shall constitute service pursuant to chapters 74.20A and 34.04 RCW.

The hearing shall be promptly scheduled within thirty days of the date of receipt of the request for hearing. 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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-060, filed 12/14/79.]

**WAC 388-13-070 Hearing—Initial decisions.** (1) If the hearing is granted, it shall be an administrative hearing limited to the determination of the ownership of the moneys claimed in the notice of support debt. The right to the hearing is conditioned upon holding any funds not yet disbursed or expended or to be received in the future in trust pending the final order in these proceedings or during any appeal to the courts. The secretary or the secretary's designee shall enter an appropriate order providing for the terms of the trust.

(2) The hearing shall be a contested case as provided for in chapter 34.04 RCW and shall be held pursuant to this section, chapter 34.04 RCW, and the rules of the department.

(3) The hearing shall be promptly scheduled within thirty days from the date of receipt by the office of support enforcement of the answer/request for hearing by the department. The hearing shall be conducted by a duly qualified hearing examiner appointed for that purpose. Hearings may be held in the county of residence of the debtor or other place convenient to the debtor.

(4) The department shall have the burden of proof to establish ownership of the support moneys claimed, including but not limited to moneys not yet disbursed or spent.

(5) After evidence has been presented at a hearing conducted by a hearing examiner, the hearing examiner shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The hearing examiner shall make his/her decision and enter his/her findings of fact based upon the evidence admitted at the hearing. The office of support enforcement shall have the right to orally amend the notice of support debt, at the time of hearing, to conform to the evidence in which case the hearing examiner is empowered to grant a continuance, when deemed necessary, to allow the debtor additional time to present rebutting evidence and/or argument as to the amendment.

(6) The hearing examiner shall file the original of the initial decision and order, signed by him/her, with the secretary or the secretary's designee and copies thereof shall be mailed by the hearing examiner to the office of

support enforcement and to the debtor by certified mail to the last address provided by each party.

(7) To the extent they do not conflict with these rules or chapter 171, section 18, Laws of 1979 ex. sess. [RCW 74.20A.270], the provisions of chapter 388-11 WAC and RCW 74.20A.055 shall apply to this process. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-070, filed 12/14/79.]

**WAC 388-13-080 Review of initial decision.** The review process provided for in WAC 388-11-105 shall apply to actions under this chapter. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-080, filed 12/14/79.]

**WAC 388-13-085 Collection action.** Action may be taken under chapter 74.20A RCW to collect debts determined, but unpaid under chapter 388-13 WAC. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-085, filed 12/14/79.]

**WAC 388-13-090 Limitation on proceeding.** (1) The office of support enforcement may take action to assess the debt but may not take collection action under chapter 74.20A RCW and chapter 388-13 WAC during such period of time as the public assistance recipient remains in that status.

(2) Payments not credited against the department's debt pursuant to RCW 74.20.101 may not be assessed or collected under chapter 388-13 WAC. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-090, filed 12/14/79.]

**WAC 388-13-100 Acknowledgment of debt.** If the debtor makes answer to the notice of support debt acknowledging that the department owns the support payments in issue, the office of support enforcement shall be authorized to take collection action pursuant to chapter 74.20A RCW if the debtor fails to pay said debt within twenty-one days of the date of receipt of said answer. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-100, filed 12/14/79.]

**WAC 388-13-110 Default.** (1) If the debtor fails to appear at the hearing, the hearing examiner shall, upon a showing of valid service, enter an initial decision and order declaring the amount of the support moneys, as claimed in the notice, to be assessed and determined and subject to collection action under chapter 74.20A RCW.

(2) Within thirty days of entry of the decision and order in subsection (1) of this section, the debtor may petition the secretary or the secretary's designee to vacate the decision and order and remand the matter upon the showing of any of the grounds enumerated in RCW 4.72.010 or CR 60. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-110, filed 12/14/79.]

**WAC 388-13-120 Procedural reference.** (1) WAC 388-11-145, 388-11-150 and 388-11-180 and all procedural references in that last section shall apply to actions under this chapter.

(2) Any provisions of chapters 388-11 or 388-14 WAC not in conflict with these rules or chapter 171, section 17 or 18, Laws of 1979 ex. sess. [RCW 74.20.320 and 74.20A.270], shall apply to actions under this chapter. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-120, filed 12/14/79.]

**Chapter 388-14 WAC  
SUPPORT ENFORCEMENT**

WAC	
388-14-020	Definitions.
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**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

388-14-375	Notice of debt. [Statutory Authority: RCW 74.08.090. 78-07-015 (Order 1305), § 388-14-375, filed 6/15/78.] Repealed by 79-11-086 (Order 1446), filed 10/24/79. Statutory Authority: RCW 74.08.090.
388-14-380	Petition for hearing after twenty days—Stay. [Statutory Authority: RCW 74.08.090. 78-07-015 (Order 1305), § 388-14-380, filed 6/15/78.] Repealed by 79-11-086 (Order 1446), filed 10/24/79. Statutory Authority: RCW 74.08.090.

**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.

(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. See also WAC 388-14-200(2)(c).

(5) "Aid" means aid to families with dependent children 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) The "required support obligation for the current month" is defined as the amount of a superior court order for support or the periodic future support amount determined pursuant to chapter 388-11 WAC which is or will be owing for the current month.

(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.

(10) "Secretary" means the secretary of the department of social and health services, his/her designee or authorized representative, which for all purposes as used in chapter 74.20A RCW shall mean the designee of the secretary, the chief, office of support enforcement or his designee, except as is provided for in WAC 388-11-011(5) wherein for purposes of RCW 74.20A.055 "secretary" has another meaning.

(11) "Family" shall mean the person or persons on behalf of whom support is sought which unit may include a custodial parent or other person and one or more children or a child or children in foster care placement. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-020, filed 12/14/79; Order 1054, § 388-14-020, 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.

(2) When (1), above is satisfied, cooperation is further required as a continuing condition of eligibility for assistance unless the CSO determines that the applicant/recipient has good cause not to cooperate under WAC 388-24-111. 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, or dissolution including copies of any documents and any court orders establishing paternity and/or support obligations. Information must be given at the time of application and/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 putative fathers 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, private attorneys compensated under chapter 171, section 19, Laws of 1979 ex. sess. [RCW 74.20.350], 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) When a custodial mother has informed the department that a particular man is the father of her child, the department shall make no further inquiry into her personal life unless the man so identified has denied that he is the father of such child.

(d) 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, private attorneys compensated under chapter 171, section 19, Laws of 1979 ex. sess. [RCW 74.20.350], 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.

(e) 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) Remittance of all support payments received by the applicant/recipient from any person or agency to the office of support enforcement within eight days of receipt of said payments.

(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 moneys are not remitted within eight days of receipt 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 remit support moneys received direct, within eight days of receipt, 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 moneys 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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-200, filed 12/14/79; 78-09-053 (Order 1330), § 388-14-200, filed 8/22/78; Order 1054, § 388-14-200, filed 9/25/75.]

**WAC 388-14-205 Responsibilities of the office of support enforcement.** (1) The office of support enforcement will undertake, when public assistance is paid or the services requested, to:

(a) Establish paternity of any child born out of wedlock; and

(b) Secure support for a child from any person legally liable for such support.

(2) The office of support enforcement will not act to establish paternity or secure child support in any case

for which it has received notice that the CSO has determined that there has been a finding of good cause under WAC 388-24-111.

(a) The office of support enforcement will request that all activities under Title IV-D to establish paternity or secure child support involving activities of agencies acting under cooperative agreements are suspended when OSE receives notice from the CSO that an applicant or recipient has claimed good cause until notified of the final determination of the CSO.

Any agency acting under a cooperative agreement who fails or refuses to comply with the request to suspend activities shall not be entitled to financial participation under the Title IV-D cooperative agreement as to said case or cases upon which the request is made.

A child support obligation continues while enforcement and/or collection action is suspended pending a final determination of good cause and will be subject to collection when a decision is made that good cause for refusal to cooperate no longer exists.

(b) The office of support enforcement will review and comment on the findings and basis for the proposed determination by the CSO.

(c) The office of support enforcement will be a party to any hearing requested as a result of an applicant's or recipient's appeal of any agency action under WAC 388-24-111. [Statutory Authority: RCW 74.08.090. 79-06-032 (Order 1400), § 388-14-205, filed 5/16/79; 78-09-053 (Order 1330), § 388-14-205, filed 8/22/78.]

**WAC 388-14-210 Support payments to office of support enforcement.** (1) All support moneys paid to satisfy a support obligation assigned to the department shall be routed to the office of support enforcement. See RCW 74.20.101.

(2) All support moneys 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 remitted by the recipient or other person or agency to the office of support enforcement within eight days of receipt of the payment. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-210, filed 12/14/79; Order 1054, § 388-14-210, filed 9/25/75.]

**WAC 388-14-220 Subpoena power.** The chief, regional supervisors, district supervisors, claims officers 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 chapters 388-11 and 388-14 WAC as to matters they deem relevant to the performance of their duties. [Statutory Authority: RCW 74.08.090. 78-07-015 (Order 1305), § 388-14-220, filed 6/15/78; Order 1054, § 388-14-220, filed 9/25/75.]

**WAC 388-14-270 Distribution of support payments--Public assistance.** All payments collected as support on behalf of persons receiving public assistance in the state of Washington for whom an assignment is

made under WAC 388-24-108 and 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 during periods of time when aid is being provided, 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) Amounts collected which are paid more frequently than once a month 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.

(e) Any amounts distributed to the family will be reported to the community service office identifying whether or not the payment is available to meet the need. This requirement shall not relieve the recipient of the duty to report receipt of any support moneys.

(f) 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.

(g) No distribution may be made under subdivision (2)(a) unless a new assignment has been made pursuant to WAC 388-24-108 and 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 assignment under WAC 388-24-108 and 388-14-200 is effective shall be distributed as follows:

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

(b) If the amount collected is in excess of the amount required to be distributed under subdivision (2)(a), 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.

(c) If the amount collected is in excess of the amounts required to be distributed under subdivisions (2)(a) and (2)(b), 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.

(d) If the amount collected is in excess of the amounts required to be distributed under subdivisions (2)(a), (2)(b) and (2)(c), 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 388-14-200 for the current month and all past months.

(4) Any amount paid under subdivisions (2)(b) and (2)(d) shall be identified as not being an assistance payment.

(5) Whenever the office of support enforcement is making collections on delinquent support assigned to the department pursuant to WAC 388-24-108 and 388-14-200, the office of support enforcement may pay to the family pursuant to WAC 388-14-250 from said collections an amount equal to the monthly amount owed for



current support as established by either the superior court order for support or the administrative order or final determination entered pursuant to chapter 388-11 WAC:

(a) Payments to the family pursuant to this subsection may be made only during the four months following the last month in which aid was paid and thereafter for months subsequent to the submission and acceptance of a nonassistance support enforcement application pursuant to WAC 388-14-300 through 388-14-315;

(b) Payments may not be made for months in which no collections have been made on the delinquent support assigned and payments may not be made for a person from collections on the delinquent support assigned by a different person;

(c) Payments may only be made to a person if the person is owed an unpaid current support obligation for the month in which the payment is made;

(d) The department has, upon making any such payment, an additional assignment by operation of law of the unpaid current support obligation owed to the person for whom the payment is made for the month in which the payment is made. The office of support enforcement shall take action to collect this assigned unpaid obligation to reimburse the department and/or the federal government for the payment made. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-270, filed 12/14/79; Order 1054, § 388-14-270, filed 9/25/75.]

**WAC 388-14-302 Nonassistance support enforcement—Persons eligible.** (1) Any resident of the state of Washington who is a physical and legal custodian or guardian of a person who is a resident of the state of Washington and who is not a recipient of public assistance for whom a support obligation is owed and who is not receiving adequate support (as defined by WAC 388-14-100) from persons 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 support obligations for nonassistance clients. When the person(s) owing the duty to pay support is deceased or is eligible for or receiving old age or disability insurance benefits, public assistance moneys, supplemental security income, or is participating in any other governmental, private charity or other rehabilitation program providing benefits at less than the standards in WAC 388-29-100, 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 effective with the date of termination of public assistance. An application made prior to termination shall not be effective until the first of the month following termination from assistance. Support enforcement services may be continued by the office of support enforcement for a period of time not to exceed four months following last month in which public

assistance was paid as a continuation of actions maintained as a result of an assignment pursuant to WAC 388-24-108 and 388-14-200. During such four month period, all support moneys collected except those collected to satisfy arrears assigned to the department under chapter 171, sections 17 and 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], 42 USC 602 (a)(26)(A), RCW 74.20A.250 and/or 74.20A.030 shall be remitted to the children's custodian without deduction of fees for nonassistance services. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-302, filed 12/14/79; 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 the applicant/custodian to obtain 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 community service 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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-305, filed 12/14/79; 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 to pay support; agree to remit within eight days of receipt to the office of support enforcement support moneys received directly from the person owing a duty to pay support during the



period of time support enforcement services are maintained; and 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 moneys 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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-310, filed 12/14/79; 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 moneys 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) No fees may be charged for the four-month period following the last month in which public assistance was paid 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 388-14-302(2).

(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. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-315, filed 12/14/79; 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 four-month period following the last month in which public assistance was paid shall be forwarded without deduction of fees to the applicant/custodian.

(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) Nothing herein shall be construed to obligate the office of support enforcement to remit to the applicant/custodian moneys paid in satisfaction of a debt owed to the department under chapter 171, sections 17 and 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], 42 USC 602(a)(26)(A), RCW 74.20A.250, or 74.20A.030 except as provided for

in WAC 388-14-270(5). The total amount of any obligation that has accrued under the assignment made pursuant to WAC 388-24-108 and 388-14-200 prior to termination of assistance is collectible by the office of support enforcement subsequent to termination of assistance to reimburse the department for public assistance paid prior to termination. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-320, filed 12/14/79; 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 moneys 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 moneys 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 or reapplications may be denied 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 moneys 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 moneys directly to the applicant/custodian or other forwarding agent, court, as appropriate. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-325, filed 12/14/79; Order 1054, § 388-14-325, 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(a)(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 chapters 74.20 and 74.20A RCW to collect said reassigned rights. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-365, filed 12/14/79; 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.

(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 or a political subdivision of another state pursuant to the approved Title IV-D plan makes the enforcement and collection of the support rights assigned under 42 USC 602(a)(26)(A), or chapter 171, sections 17 and 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], 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 moneys to be reimbursed to the federal government.

(a) An amount equal to 15 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;

(b) 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 child support enforcement of the department of health, education, and welfare. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-370, filed 12/14/79; 78-07-015 (Order 1305), § 388-14-370, filed 6/15/78; Order 1054, § 388-14-370, filed 9/25/75.]

**WAC 388-14-375 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-14-380 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-14-385 Conference board.** A conference board is herewith established to make inquiry into, determine facts and attempt to resolve matters in which a responsible parent, custodial parent or other person feels aggrieved by actions taken by the office of support enforcement pursuant to chapters 74.20, 74.20A RCW, or Title IV-D of the Social Security Act (Title 42 USC).

The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances by responsible parents, custodial parents, or other persons. An applicant for a conference board proceeding must

have made a reasonable attempt and have failed to resolve the grievance or issue with the workers before a conference board may act to attempt to resolve the issue.

The regional supervisor or his designee or the chief, office of support enforcement may assemble a conference board on application of the aggrieved person or on his own motion to investigate, find facts, and state or apply policy or law to the end of resolving grievances.

If the grievance or issue presented in an application for conference board does not involve a factual dispute, or if the disputed fact(s) even if resolved in favor of the applicant would not provide a basis upon which relief could be granted to the applicant by a conference board acting in accordance with the standards provided for herein, the regional supervisor or his designee may take such action as he/she deems appropriate and to that end he/she may individually exercise any of the authority provided for in this regulation. If an apparent factual dispute exists the conference board shall be composed of the regional supervisor or his designee, who shall serve as chairman, and two staff members appointed by the regional supervisor or his designee or alternatively the chief, office of support enforcement, may appoint the conference board from the staff of that region. The conference board shall dissolve upon issuance of decisions on matters for which it was appointed.

Nothing herein shall preclude the chief, office of support enforcement, from appointing a conference board for matters deemed appropriate.

The chairman of the conference board is herewith authorized as a duly appointed officer empowered to issue subpoena of witnesses, books, records, etc., as provided for in RCW 74.04.290 and shall have power to subpoena witnesses, administer oaths, take testimony, and compel the production of such papers, books, records, and documents as he deems relevant to the resolution of the grievance under consideration. Additional evidence may be taken by affidavit or other written submission when necessary or practicable together with written or oral argument. Persons having specific familiarity with the matter at issue or technical expertise with the subject may be designated to advise the board as required.

The conference board's jurisdiction shall include but shall not be limited to the following areas:

(1) Complaints as to the conduct of individual staff members while acting in the scope of their duties. The decision of the board shall be directed to the first line supervisor for action as appropriate;

(2) Review of denial of application for or termination of nonassistance support enforcement services;

(3) Review of allegations of error as to the distribution of support moneys;

(4) Resolution of amounts of arrears claimed due and rate of repayments;

(5) Requests to release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of responsible parent or parents and minor children in their home;

(6) Requests for deferral of support enforcement action;

(7) Requests for partial or total charge-off of support arrears pursuant to RCW 74.20A.220 or declination to collect support arrears pursuant to RCW 74.20.040 on nonassistance cases;

(8) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.

The decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department of social and health services rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins and the exercise of reasonable administrative discretion. The decision shall be in writing, and shall find the facts, applicable law, policies applied, and clearly state the decision. If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. Decisions inconsistent with the above standards shall be vacated by the chief of the office of support enforcement and the issue remanded to the regional supervisor for issuance of a new decision in compliance with the standards.

A file of pertinent documents shall be established for each case and a copy of the decision, signed by the chairman, shall be distributed to the petitioning party, the appropriate office of support enforcement district field office for action consistent with the decision of the board, and the chief, office of support enforcement.

Decisions to grant partial or total charge-off pursuant to RCW 74.20A.220 of arrears owed to the department of social and health services under RCW 74.20A.030, 74.20A.250, chapter 171, sections 17 and 22, Laws of 1979 ex. sess. [RCW 74.20.320][RCW 74.20.330], or 42 USC 602(a)(26)(A) shall be based on the following considerations which shall be found and stated in the written decision of the conference board fully justifying the action taken:

(1) Error in law or bona fide legal defects which materially diminish chances of collection; or

(2) Substantial hardship to minor children in the household of the responsible parent or other minor children for whom the responsible parent actually provides support which hardship is to be measured against income standards for public assistance and consideration of all available income, property and resources of the responsible parent and the necessity to apportion the income and resources of the responsible parent on an equitable basis with the children for whom the arrears accrued; or

(3) Costs of collection action in the future which are greater than the amount to be charged off; or

(4) Settlement from lump sum cash payment which is beneficial to the state considering future costs of collection and likelihood of collection.

The considerations and decision shall not be a contested case subject to review by the superior court the conference board process and shall not be a substitute for any constitutionally or statutorily permitted hearing. Aggrieved parties may be represented before the board by a person of their choice but the department will not be responsible for any costs incurred by the aggrieved

person in connection with the conference. [Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-385, filed 12/14/79; 78-07-015 (Order 1305), § 388-14-385, filed 6/15/78.]

### Chapter 388-15 WAC

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

##### WAC

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388-15-553	Adult family home—Determination of need.
388-15-554	Adult family home—Placement in facility.
388-15-555	Adult family home—Payments—Standards—Procedures.
388-15-570	Services to children in their own home.

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

388-15-230	Employment oriented casework. [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.] Repealed by 79-03-013 (Order 1368), filed 2/15/79. Statutory Authority: RCW 74.08.090.
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#### 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, providing crisis intervention to families in conflict and runaways 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. [Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-15-010, filed 9/1/78; 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 or extended sheltered employment 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, services to children in their own home 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[,] effective October 1, 1978 is \$18,359. 80% = \$14,687.

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

Number in Family	Monthly Income	Annual Income
1	637	7,638
2	832	9,987
3	1,028	12,338
4	1,224	14,687
5	1,420	17,037
6	1,616	19,387

(b) Income tables for 57% gross median income, one-person family only.

Monthly Income	Annual Income
454	5,442

(c) Income table for 52% gross median income:

Family Size	Monthly Income	Annual Income
2	541	6,492
3	668	8,019
4	796	9,547
5	923	11,074
6	1,050	12,602

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

Family Size	Monthly Income	Annual Income
1	398	4,774
2	520	6,242
3	643	7,711
4	765	9,180
5	887	10,648
6	1,010	12,117

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

Family Size	Monthly Income	Annual Income
1	302	3,623
2	395	4,744
3	488	5,860
4	581	6,976
5	674	8,092
6	767	9,209

(f) See WAC 388-29-100 for grant standards.

(3) Family means two or more persons related by blood, marriage or adoption, residing in the same household, and may include a dependent residing in a separate household for whom support is paid.

(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. An individual living alone or with unrelated persons may include in his/her application a dependent living in a separate household for whom support is paid.

(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 persons 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. [Statutory Authority: RCW 74.08.090. 79-01-041 (Order 1360), § 388-15-020, filed 12/21/78; 78-09-098 (Order 1335), § 388-15-020, filed 9/1/78; Statutory Authority: RCW 43.20A.550. 78-04-004 (Order 1276), § 388-15-020, filed 3/2/78; 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 1/29/76.]

**Reviser's Note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

#### 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. In cases of intended action to discontinue, terminate, suspend, or reduce the services of a recipient, the department will provide that recipient notice, in writing, of this action and the individual's right to request a fair hearing at least ten days prior to the effective date of that action. The ten day notice is not required when a service is provided and at time of authorization there are specified beginning and end dates. The client shall be given a copy of the written agreement at the time of initiation of services, and a termination notice shall be sent dated no later than the specified ending date.

(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.

(9) Services shall not be suspended, reduced, discontinued, or terminated until the fair hearing decision is rendered if a hearing is requested within ten days prior to the effective date. There are two exceptions to this policy. The first exception is when it has been determined at the hearing that the sole issue is the result of a change or application of state or federal law or policy.

The second exception is when a change affecting the recipient's service eligibility occurs while a hearing decision is pending and the recipient fails to request a subsequent hearing after notice of the change has been given by the department. If, under these exceptions, service is to be discontinued, the department will notify the recipient of this action, in writing, at least ten days prior to the effective date of that action. [Statutory Authority: RCW 74.04.090 [74.08.090]. 79-08-112 (Order 1420), § 388-15-030, filed 7/31/79; 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 388-15-120 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 may be provided as appropriate or advocacy to assure receipt or preservation of rights and entitlements due to adults at risk.

(3) Goals for 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). [Statutory Authority: RCW 43.20A.550. 78-04-004 (Order 1276), § 388-15-120, filed 3/2/78; 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.** The authority for the department's child protective services program is chapter 26.44 RCW and RCW 74.13.031.

(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, as well as cooperation with out-of-state child protective service agencies.

(3) Goals for child protective services shall be limited to those specified in WAC 388-15-010(1)(c). Also see WAC 388-15-010(2). [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-130, filed 9/10/79. Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-15-130,

filed 9/1/78; 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 CSO 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 CSO 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 CSO 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. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-131, filed 9/10/79; 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 CSO:

(1) The departmental CSO 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. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-132, filed 9/10/79; 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 CSO.

(4) The person, if available, shall be informed of the placement of his name as an abuser in the central registry.

(5) The person, if available, shall be advised of his right to a fair hearing in accordance with chapter 388-08 WAC.

(6) 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.

(7) Even if the report is not substantiated, service may continue as per WAC 388-15-132. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-134, filed 9/10/79; 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 developmentally disabled 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. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-136, filed 9/10/79; 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 CSO. Eligible persons may obtain available information by contacting the CSO or the central registry. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-137, filed 9/10/79; 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 CSO 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 CSO 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 CSO with the concurrence of all other reporting CSOs, 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 CSO 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 CSO case record, if there is no reference to the person responsible for the abuse. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-138, filed 9/10/79; Order 1238, § 388-15-138, filed 8/31/77.]

**WAC 388-15-140 Residential services.** (1) Residential services are those services necessary to select the appropriate residential placement to meet the particular needs and desires of eligible adults, including placement in adult family homes, congregate care facilities and nursing homes, as well as periodically reviewing the



placement for appropriateness. The department's nursing care consultants will be used as resources to verify that individuals with medical problems are placed, or placed in settings where their medical needs are appropriately and adequately met.

(2) Goals for residential services shall be limited to those specified in WAC 388-15-010(1)(a) through (e). Also see WAC 388-15-010(2). [Statutory Authority: RCW 74.08.044, 79-09-039 (Order 1425), § 388-15-140, filed 8/17/79; 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 388-15-145 Nursing home discharge allowance.** A one-time allowance may be issued to Medical Care Program eligible nursing home residents who have been certified ready for discharge.

(1) The allowance must be used to obtain independent housing and to start or resume housekeeping.

(2) Persons eligible for the discharge allowance must

(a) have no existing independent residence,

(b) not have a spouse or dependents living in an independent residence to which the person could return, and

(c) have no more than \$600 in cash or other liquid resources which could be converted at face value to cash within thirty days.

(3) The discharge allowance issued is based on the actual amount required to establish or re-establish an independent residence for the individual, subject to the following maximums:

Cash Resource Level	Maximum Discharge Allowance
0 - \$300	\$400
\$301 - \$400	\$300
\$401 - \$500	\$200
\$501 - \$600	\$100

[Statutory Authority: RCW 74.08.090, 79-12-028 (Order 1456), § 388-15-145, filed 11/16/79.]

**WAC 388-15-170 General and seasonal 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) 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 seasonal 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.

(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) Eligibility for Seasonal Day Care is:

(a) Both parents, or the single parent (in the case of the one-parent family) must be currently employed or seeking work in agriculturally related work or with agencies which serve migrant families; and

(b) Must derive at least 50% of its annual income from agriculturally related work; and

(c) must have more than one agricultural employer per year; and

(d) Must have a gross income for the past 12 months not to exceed 38% of the state median income adjusted for family size.

(5) Standards for in-home care

(a) In-home care is the care and supervision of a child in her or his own home by a relative or by an unrelated person during part of the 24-hour day while the child's parent(s) 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 or he is capable of handling children of the ages for whom she or he 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 or his primary function that of child care,

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

(iii) Provide appropriate activities for children in care.

(6) 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. [Statutory Authority: RCW 43-20A.550. 78-04-004 (Order 1276), § 388-15-170, filed 3/2/78; 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 388-15-172 Day care participation.** (1) The department will provide assistance for day care expenses of employed one and two parent families whose income exceeds 38% of the state median income adjusted for family size (SMIAFS), but does not exceed 52% SMIAFS. The parent(s) shall pay 50% of available income (income above 38% of SMIAFS) toward the cost of day care. The department shall pay the remainder not to exceed its established rate. Participation schedules are available at local offices of the department.

(2) Day care participation will only be authorized for the hours the parent(s) is employed. When one parent is employed and the other is in training, day care participation will only be authorized for the hours the working parent is employed and the other parent is in training. [Statutory Authority: RCW 43.20A.550. 78-07-021 (Order 1306), § 388-15-172, filed 6/15/78.]

**WAC 388-15-212 Service determinations.** (1) Chore service need and amount determinations for all applicants and recipients of the service will be made by utilizing a total functional ability rating process on each individual.

(2) The total functional ability of each individual shall be defined as that person's ability to perform activities of daily living, living conditions and arrangements, and the availability and use of alternative services.

(3) The department will utilize a total functional ability rating process in determining service need and amount. The functional ability rating tool will be available at the CSO of the department.

(4) Chore services may be provided either through direct client payments or through contracted services, as deemed most appropriate by the department. [Statutory Authority: RCW 74.08.090. 79-01-042 (Order 1361), § 388-15-212, filed 12/21/78.]

**WAC 388-15-230 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-15-360 Refugee assistance.** (1) This service includes information and referral, employment oriented casework, job development, job placement, skills training, work setting training, counseling and orientation, English as second language training, and transportation to department approved training.

(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. [Statutory Authority: RCW 43.20A.550. 78-04-004 (Order 1276), § 388-15-360, filed 3/2/78; 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 388-15-551 Adult family home--Definition.** An adult family home is a private home licensed to care

for no more than four residents which has entered into a service delivery contract with the department. [Statutory Authority: RCW 74.08.044. 79-09-039 (Order 1425), § 388-15-551, filed 8/17/79.]

**WAC 388-15-552 Adult family home--Eligible persons.** (1) Persons are eligible to receive adult family home care placement services who:

(a) Have income less than eighty percent State Median Income Adjusted for Family Size (SMIAFS);

(b) Require less than skilled nursing care. See WAC 388-88-081;

(c) Are unable to maintain a safe environment in an independent living arrangement, or require training, supervision or assistance with activities of daily living services and/or health related services.

(2) Persons are eligible to receive adult family home payment services whose:

(a) Nonexempt income exceeds the basic cost of care; but

(b) Is less than the cost of their individual level of care as assessed by department staff. [Statutory Authority: RCW 74.08.044. 79-09-039 (Order 1425), § 388-15-552, filed 8/17/79.]

**WAC 388-15-553 Adult family home--Determination of need.** The department, in consultation with the individual, shall assess if the individual requires adult family home care. Adult family home services include those necessary for activities of daily living, such as eating/dining, community mobility, etc., and health-related services such as diet and ambulation. Consideration will be given to other services available for the client including community services such as chore services, home health aide, etc., as well as other residential services available. [Statutory Authority: RCW 74.08.044. 79-09-039 (Order 1425), § 388-15-553, filed 8/17/79.]

**WAC 388-15-554 Adult family home--Placement in facility.** Selection of an adult family home is to be made by the individual, his/her relatives or others acting on his/her behalf. [Statutory Authority: RCW 74.08.044. 79-09-039 (Order 1425), § 388-15-554, filed 8/17/79.]

**WAC 388-15-555 Adult family home--Payments--Standards--Procedures.** All nonexempt income of a person placed in an adult family home 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 adult family home care.

(1) Nonexempt income is gross income less the first twenty dollars of any earned or unearned income plus the next sixty-five dollars of the earned income plus one-half the remainder of the earned income.

(2) Adult family home residents may also retain up to fifteen hundred dollars in cash or other liquid resources. Any resources in excess of this limitation are considered nonexempt income to be applied to cost of care and services. Also see WAC 388-29-580 and 388-92-045 for

standards and resources. [Statutory Authority: RCW 74.08.044. 79-09-039 (Order 1425), § 388-15-555, filed 8/17/79.]

**WAC 388-15-570 Services to children in their own home.** (1) It is the purpose of this service to maintain the family unit and thereby avoid the necessity of out-of-home placement of children.

(2) Under this program services are provided to runaways and families in conflict. These populations are defined as follows:

(a) Runaways: The department provides crisis intervention services to actual runaways, and does not provide intervention services to threatened runaways - unless the threatened runaways meet the definition of families in conflict.

(b) Families in conflict: The department provides crisis intervention services to families to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or family.

(3) Services are provided as follows:

(a) Crisis intervention: This service is directed toward defusing immediate potential for violence, assessment of problems and exploration of options which could lead to problems resolution, referral to appropriate resources including medical, legal, ongoing counseling, child protective services, and provision of short-term family counseling sessions for problems resolution.

(b) Family support services: These services are provided to children and their families following crisis intervention services. This service is authorized when it is apparent that the conditions which necessitated crisis intervention services have not been adequately remedied.

(c) These services are not provided for habitual truants, expelled students and marital disputes not directly involving conflict between children and parents, for custody disputes, and for cases receiving similar services from other agencies.

(4) 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). [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-570, filed 9/10/79. Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-15-570, filed 9/1/78; Order 1238, § 388-15-570, filed 8/31/77.]

**Chapter 388-17 WAC**

**SENIOR CITIZENS SERVICES PROGRAM**

WAC	
388-17-010	Legal basis for senior citizens services program.
388-17-020	Definitions.
388-17-030	Repealed.
388-17-040	Repealed.
388-17-050	Repealed.
388-17-100	Rights and responsibilities of applicants and recipients.
388-17-120	Eligibility for senior citizens services—Application.
388-17-140	Repealed.
388-17-160	Income and resources.

388-17-180	Fee schedule.
388-17-200	Repealed.
388-17-220	Repealed.
388-17-240	Repealed.

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

388-17-030	Description of program—Purpose. [Order 1174, § 388-17-030, filed 11/30/76.] Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.
388-17-040	Scope. [Order 1174, § 388-17-040, filed 11/30/76.] Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.
388-17-050	Administration. [Order 1174, § 388-17-050, filed 11/30/76.] Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.
388-17-140	Eligible persons. [Order 1174, § 388-17-140, filed 11/30/76.] Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.
388-17-200	Services provided by the senior citizens services program. [Order 1174, § 388-17-200, filed 11/30/76.] Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.
388-17-220	Mental health training program. [Order 1174, § 388-17-220, filed 11/30/76.] Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.
388-17-240	Volunteer programs. [Order 1174, § 388-17-240, filed 11/30/76.] Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.

**WAC 388-17-010 Legal basis for senior citizens services program.** The following rules are adopted under the authority of chapter 74.38 RCW. [Statutory Authority: RCW 74.38.030. 78-05-077 (Order 1292), § 388-17-010, filed 5/1/78; 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 chapter 74.38 RCW.

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

(3) Household – applicants and recipients shall be considered to be single person households except:

(a) a husband and wife residing together are considered a two person household.

(b) an applicant or recipient which provides the majority of the support for a person(s) residing with the applicant or recipient shall be considered a member of a household which includes the applicant or recipient and the dependent person(s). [Statutory Authority: RCW 74.38.030. 78-05-077 (Order 1292), § 388-17-020, filed 5/1/78; Order 1174, § 388-17-020, filed 11/30/76.]

**WAC 388-17-030 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-17-040 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-17-050 Repealed.** See Disposition Table at beginning of this chapter.

**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 within ten days. If an adverse decision is made regarding eligibility, the applicant will be provided written notice. 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 at the hearing by a friend, relative or other representative.

(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 area agency or service provider regarding his or her eligibility for senior citizens services shall have the right to an informal hearing provided by the area agency. The hearing shall be held within thirty days of the date a request is made and a written decision shall be rendered within fifteen days after the hearing. If the applicant or recipient is dissatisfied with the outcome of the informal hearing, he or she may request the department provide a fair hearing as specified in chapter 388-08 WAC. Any person who desires a hearing must within thirty days after receiving written notice of a decision regarding eligibility make written request for a hearing to the area agency or the department.

(d) Information obtained by the department, area agency or vendor identifying 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, national origin or handicap.

(f) Each applicant for services for which a fee may be charged 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 for services for which a fee may be charged 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 of services for which a fee may be charged 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. [Statutory Authority: RCW 74.38.030. 78-05-077 (Order 1292), § 388-17-100, filed 5/1/78; 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 contain a signed declaration that the information contained in the application is true, correct and complete to the best of the applicant's knowledge.

(3) 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.

(4) Each applicant for services for which a fee may be charged shall be given a notice of eligibility. [Statutory Authority: RCW 74.38.030. 78-05-077 (Order 1292), § 388-17-120, filed 5/1/78; Order 1174, § 388-17-120, filed 11/30/76.]

**WAC 388-17-140 Repealed.** See Disposition Table at beginning of this chapter.

**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 the secretary of H.E.W. 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.

(ix) The benefits of a program which by its terms provides that its benefits are exempt from consideration of eligibility in needs programs.

(2) Effective October 1977, the state median income for a family of four is \$16,800. Forty percent is \$6,720. Income tables for forty percent of median income.

Number In Family Unit	Monthly Income	Annual Income
1	\$ 291	\$ 3,492
2	381	4,572
3	471	5,652
4	560	6,720
5	650	7,800

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.

(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) Personal property used by the applicant or recipient to earn income or to rehabilitate himself/herself.

(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 household. [Statutory Authority: RCW 74.38.030. 78-05-077 (Order 1292), § 388-17-160, filed 5/1/78; 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 published in DSHS Form 14-155(X) 9/77 which is incorporated by reference herein. For each size household the percentage of the cost of the service for which the department will make payment is based on the following formula:

$$\frac{100\% \text{ state median income (SMI)} - \text{Household Income}}{100\% \text{ SMI} - 40\% \text{ SMI}} \times 100$$

(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) Fees paid shall not exceed the cost of services provided. [Statutory Authority: RCW 74.38.030, 78-05-077 (Order 1292), § 388-17-180, filed 5/1/78; Order 1174, § 388-17-180, filed 11/30/76.]

**WAC 388-17-200 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-17-220 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-17-240 Repealed.** See Disposition Table at beginning of this chapter.

### Chapter 388-22 WAC

#### DETERMINING AND VERIFYING ELIGIBILITY-- DEFINITIONS

WAC  
388-22-030 Definitions.

**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 388-28-458.

(2) "Adult" means a person eighteen 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 eighteen 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 388-28-458.

(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 388-28-458.

(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 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 388-29-150 through 388-29-270.

(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 388-28-458.

(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. [Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-22-030, filed 9/18/78; 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	
388-24-040	Aid to families with dependent children—Summary of eligibility conditions.
388-24-050	Aid to families with dependent children—Assistance unit.
388-24-055	Aid to families with dependent children—regular—Deprivation of parental support or care.
388-24-070	Aid to families with dependent children—regular—Deprivation due to continued absence from home.
388-24-075	Aid to families with dependent children—regular—Multiple deprivation factors.
388-24-080	Repealed.
388-24-090	Eligibility conditions applicable to AFDC-R and AFDC-E—Employment or training.
388-24-107	Eligibility conditions applicable to AFDC-R and AFDC-E—Registration for WIN/employment and training.
388-24-109	Eligibility conditions applicable to AFDC-R and AFDC-E—Cooperation in obtaining support from absent parents.
388-24-111	Good cause for failure to cooperate with support enforcement.
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—Employable parent—Summary of eligibility conditions.
388-24-137	Continuation of assistance when deprivation ceases.
388-24-260	Emergency assistance—Standards—Duration.
388-24-270	Emergency assistance to needy families with children—Transportation.
388-24-275	Emergency assistance to needy families with children—Aliens.

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

388-24-080	Aid to families with dependent children—regular—Employed parent. [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,
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1/24/64.] Repealed by 79-11-081 (Order 1444), filed 10/23/79. Statutory Authority: RCW 43.20A.550.

**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 eighteen 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 388-26-105;

(3) Who is deprived of parental care and support because of death, continued absence, or incapacity of a parent or stepparent – see WAC 388-24-055 through 388-24-075. If unemployment of a parent or stepparent 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 United States as described in WAC 388-26-120;

(7) Whose parent or stepparent has not transferred property contrary to law or DSHS rules in WAC 388-28-457 through 388-28-465;

(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 eighteen 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;

(10) For persons to be included in the AFDC assistance unit, see WAC 388-24-050. [Statutory Authority: RCW 43.20A.550, 79-11-081 (Order 1444), § 388-24-040, filed 10/23/79. Statutory Authority: RCW 74.08-090, 78-10-036 (Order 1338), § 388-24-040, filed 9/18/78; 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, 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.** AFDC-R/E is paid to eligible persons on an assistance unit basis. Assistance units shall be composed of groups of persons residing together as follows:

- (1) A single assistance unit shall be established for:
  - (a) The eligible child(ren); and
  - (i) The eligible natural or adoptive parent(s) or stepparent(s) with whom the child(ren) lives; or
  - (ii) In lieu of a parent, one needy relative caretaker of specified degree with whom the child lives and whose eligibility depends solely on caring for the child(ren):
    - (b) Only the eligible child(ren) when:
      - (i) The child(ren)'s parent(s) is not eligible;
      - (ii) The child(ren) lives with a nonneedy relative of specified degree who is not legally responsible for the support of the child(ren);
      - (iii) The child(ren) lives with a needy nonresponsible relative of specified degree who receives SSI;
      - (iv) The child(ren) is a recipient of AFDC-FC;
    - (c) Only the eligible parent(s), or needy caretaker relative of specified degree, when the only child, or all the children, has been deleted from the grant because of receiving income from SSI;
  - (2) Two assistance units are necessary when:
    - (a) The responsible relative must temporarily reside apart from his or her family to secure training in accordance with an approved plan. Refer to WAC 388-24-125;
    - (i) One assistance unit is maintained for the family members in the home;
    - (ii) A separate assistance unit is established for the relative in training;
    - (b) The child lives with a nonresponsible relative of specified degree who is a member of another assistance unit.
  - (3) Two or more assistance units are necessary when two or more persons not married to each other, each has his/her own child(ren) and there is no child in common; a separate assistance unit is established for each parent and his/her eligible child(ren);
  - (4) When a relative of specified degree is eligible to receive assistance for two or more children for whom he/she is not legally responsible;
    - (a) One assistance unit is established for each group of children who are siblings;
    - (b) A separate assistance unit(s) is established for each of the other nonsibling children. [Statutory Authority: RCW 43.20A.550, 79-11-081 (Order 1444), § 388-24-050, filed 10/23/79. Statutory Authority: RCW 74.08.090, 78-12-027 (Order 1357), § 388-24-050, filed 11/15/78. Statutory Authority: RCW 78.08.090, 78-06-074 (Order 1297), § 388-24-050, filed 5/31/78,

effective 7/1/78; 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 388-24-055 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 388-24-108 through 388-24-114 in respect to support from absent parent. [Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-24-055, filed 9/18/78; 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 388-24-070 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 388-24-114 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. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-24-070, filed 9/18/78; 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—regular—Multiple deprivation factors.** When children in a family are deprived of parental support for different reasons, the assistance unit shall be classified as:

(1) AFDC-E if at least one child is deprived because of a parent's or stepparent's unemployment and the child and the unemployed parent or stepparent meet all of the requirements for AFDC-E in WAC 388-24-135. At the time unemployment ceases, deprivation exists due to incapacity of a parent, AFDC-R shall be considered if eligibility exists.

(2) AFDC-R if the requirements for AFDC-E are not met but the children are deprived because of the death, continued absence or incapacity of a parent. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-24-075, filed 10/23/79. Statutory Authority: RCW 74.08.090. 78-12-027 (Order 1357), § 388-24-075, filed 11/15/78; 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 Repealed.** See Disposition Table at beginning of this chapter.

**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/her unemployed parent or stepparent who qualifies the assistance unit for the program shall:

(a) Be currently registered for employment with DES as indicated in WAC 388-24-135(5),

(b) Show evidence of unemployment benefit status as specified in WAC 388-57-020 and 388-24-135(6),

(c) Accept employment or training for employment as indicated in WAC 388-57-025 and 388-57-030 unless certified to WIN/E&T.

(2) All AFDC applicants and recipients are subject to WIN or employment and training (E&T) registration as provided in WAC 388-24-107.

(3) A WIN/E&T registrant, unless a volunteer, who fails to cooperate in appraisal prior to certification shall be subject to the provisions of WAC 388-57-056.

(4) (a) An AFDC recipient, unless a volunteer, who has been certified for the work incentive (WIN) program and who is determined by DES 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.

(b) An AFDC recipient, unless a volunteer, who has been certified for the E&T program and who is determined by DSHS to have refused employment, training or participation in the E&T 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/E&T registration requirement for the parent or needy caretaker relative in the AFDC-R program. A

child's eligibility is affected by the WIN/E&T requirement for the unemployed parent in the AFDC-E program.

(6) An individual who has been determined to be exempt from registration for WIN/E&T on the basis of documented incapacity shall be referred to DVR. See also WAC 388-52-150 through 388-52-155. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-24-090, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-24-090, filed 2/15/79; 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/employment and training.** (1) As a condition of eligibility for AFDC, every individual shall register for the WIN or employment and training (E&T) program unless such individual is:

(a) Under age sixteen or age sixteen but not yet eighteen 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 sixty-five 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 WIN/E&T program,

(i) Temporary illness or incapacity (a condition lasting not more than ninety days) provides WIN/E&T exemption only for the period of a documented condition of unemployability. Exemption terminates when the condition ceases.

(ii) Persons who have been determined to be exempt from registration on the basis of permanent incapacity shall be referred for services under the vocational rehabilitation program.

(c) A person residing outside a WIN/E&T area or at a location so remote from a WIN/E&T project that his/her effective participation is precluded,

(d) A person whose presence in the home is required because of illness or incapacity of another member of the household,

(e) A parent or other needy caretaker relative of a child under the age of six who is caring for the child,

(f) A mother of an unborn child,

(g) A parent caretaker of a child, when the other parent or stepparent is in the home and is not exempted by (a), (b), (c) or (d) of this subsection.

(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/her status is finally determined. (See WAC 388-57-090).

(3) Any parent who qualifies the assistance unit for AFDC-E and the entire assistance unit shall be determined ineligible if that parent fails or refuses to register for the WIN/E&T program. When both parents meet the eligibility criteria, they have the option as to who shall qualify the assistance unit. When the parent who has qualified the assistance unit fails or refuses to register, the other parent shall register. The requirements of the noncooperating parent shall not be taken into account in determining the requirements of the assistance unit and the amount of assistance. (See WAC 388-57-056).

(4) The requirements of any individual other than the parent who qualifies the assistance unit for AFDC-E who fails to register as required under subsection (1) of this section shall not be taken into account in determining the requirements of the assistance unit and the amount of assistance, and assistance will be granted to the eligible members of the assistance unit.

(5) An exempt parent caretaker of a child or unborn child under the age of six shall be advised of her/his option to register if she/he 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 DES.

(6) An AFDC recipient who has been exempt from WIN/E&T registration must register within thirty days after the date the reason for his/her exemption ceases to exist.

(7) The department's income maintenance unit (IMU) shall determine which AFDC applicants/recipients are exempt from registration and which are required to register as a condition of eligibility. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-24-107, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-24-107, filed 2/15/79. Statutory Authority: RCW 74.23.120. 78-05-046 (Order 1289), § 388-24-107, filed 4/24/78; 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, filed 9/20/68.]

**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 except as specified in WAC 388-24-111. [Statutory Authority: RCW 74.08.090. 78-09-053 (Order 1330), § 388-24-109, filed 8/22/78; Order 1054, § 388-24-109, filed 9/25/75.]

**WAC 388-24-111 Good cause for failure to cooperate with support enforcement.** (1) The requirement for

cooperation of the applicant/recipient in WAC 388-24-109 shall be waived if the department determines that such cooperation would not be in the best interest of the child(ren) for whom assignment has been made according to WAC 388-24-108.

(2) The applicant/recipient must be informed of:

(a) The benefits the child may receive from establishing paternity.

(b) Their right to claim good cause for refusing to cooperate as specified in WAC 388-14-200(2)(a), (b) and (c) and 388-24-109.

(3) The applicant/recipient who claims to have good cause for refusing to cooperate must:

(a) Provide evidence of at least one of the good cause circumstances; or

(b) Provide sufficient information (such as the putative father or absent parent's name and address) to permit an investigation to determine the existence of any of the circumstances specified in subsection (6) of this section.

(4) When an applicant/recipient claims to have good cause for refusing to cooperate, the CSO social service staff will determine that good cause exists only if it finds that:

(a) The evidence supplied by the applicant/recipient establishes that cooperation would be against the best interest of the child; or

(b) Investigation of the circumstances of the case confirms the applicant's/recipient's claim that cooperation would be against the best interest of the child(ren).

(5) The final determination by the CSO social service staff that good cause does or does not exist:

(a) Shall be made as quickly as possible within thirty days from claim, unless exceptional circumstances such as those described in WAC 388-38-110 occur and longer period of time is required.

(b) Shall be in writing and contain the CSO findings and basis for determination.

(c) Shall also be entered into the financial and service records.

(6) The CSO social service staff will determine that cooperation in establishing paternity and/or securing support is against the best interest of the child only if:

(a) The applicant's/recipient's cooperation is reasonably anticipated to result in physical harm or emotional harm which clearly demonstrates observable consequences substantially impairing the functioning of either:

(i) The child for whom support is to be sought; or

(ii) The parent or caretaker relative with whom the child is living which reduces the parent or caretaker relative's capacity to care for the child adequately; or

(b) At least one of the following circumstances exists, and the CSO social service staff believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought:

(i) The child for whom support is sought was conceived as a result of incest or forcible rape;

(ii) Legal proceedings for the adoption of the child are pending before a superior court; or

(iii) The applicant/recipient is currently being assisted by a public or licensed child-placing agency to resolve the issue of whether to keep the child or relinquish it for adoption, and the discussions have not gone on for more than three months.

(7) Acceptable evidence upon which the CSO social service staff will base a determination of good cause, without further investigation, is limited to the following documents:

(a) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;

(b) Court documents or other records which indicate that legal proceedings for adoption are pending before a superior court;

(c) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or parent or caretaker relative;

(d) Medical records which indicate emotional health history and present emotional health status or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the parent or caretaker relative or the child(ren) for whom support would be sought. The recommendation of the mental health professional or the indication of the medical records must be that cooperation by the parent or caretaker relative would not be in the best interest of the child(ren);

(e) A written statement which includes the dates of counseling from a public or licensed child-placing agency that the applicant/recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish it for adoption.

(8) Upon request, the CSO will assist the applicant/recipient in obtaining the required evidence.

(9) If the applicant/recipient cannot present evidence as outlined in subsection (7) of this section and still wishes to claim good cause, the applicant/recipient must provide information which will enable the CSO to conduct an investigation regarding the circumstances of the claim. A determination that good cause exists may be based on any verifying information acceptable to the CSO social service staff. However, during the investigation the CSO:

(a) Shall not contact the absent parent or alleged father from whom support would be sought unless such contact is determined to be necessary to establish the good cause claim; and

(b) Prior to making such necessary contact, shall notify the applicant/recipient and give them the opportunity to:

(i) Present additional evidence or information so that contact with the absent parent or putative father becomes unnecessary; or

(ii) Withdraw the application for assistance; or

(iii) Request a fair hearing.

(10) For every good cause determination which is based in whole or in part upon the anticipation of emotional harm to the child, the custodial parent or the



caretaker relative, the CSO social service staff shall consider and document its findings regarding the following factors:

- (a) The present emotional state of the individual subject to emotional harm;
- (b) The emotional health history of the individual subject to emotional harm;
- (c) The intensity and probable duration of the emotional upset;
- (d) The degree of cooperation to be required; and
- (e) The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

(11) In the process of making a final determination of good cause for refusal to cooperate, the CSO social service staff shall:

- (a) Afford the Office of Support Enforcement the opportunity to review and comment on the findings and basis for the proposed determination;
- (b) Consider any recommendation from the Office of Support Enforcement; and
- (c) Provide the Office of Support Enforcement the opportunity to participate in any hearing that results from an applicant's/recipient's appeal of any determination based on a good cause claim.

(12) Assistance shall not be denied, delayed or discontinued pending a determination of good cause for refusal to cooperate if the applicant/recipient has complied with the requirements to furnish evidence or information, if the applicant/recipient is otherwise eligible.

(13) If the CSO social service staff makes a determination of good cause on the basis of circumstances specified in subsection (6) of this section, no attempt shall be made to establish paternity or secure support. This determination shall be in writing, contain the CSO's findings and basis for determination, and be entered into the financial and service records.

(14) The CSO social service staff shall periodically review, not less frequently than at each eligibility review, all cases in which a finding of good cause for refusal to cooperate has been made. If it determines that good cause no longer exists, it will rescind its decision and require cooperation by the applicant/recipient.

(15) If the CSO social service staff determines that good cause does not exist:

- (a) The applicant/recipient shall be so notified and afforded the opportunity to cooperate, withdraw their application for assistance, have the case closed, or request a fair hearing; and
- (b) Continued refusal to cooperate shall result in the loss of AFDC eligibility for the caretaker relative as specified in WAC 388-24-108(2).

(16) The CSO shall maintain records concerning its activities under this section.

(17) The CSO will promptly report to the Office of Support Enforcement:

- (a) All cases in which good cause has been claimed and a determination is pending;
- (b) All cases in which it has been determined that there is good cause for refusal to cooperate;

(c) All cases in which it has been determined that there is not good cause for refusal to cooperate;

(d) All cases in which a fair hearing has been requested; and

(e) Results of subsequent eligibility reviews in cases previously determined to have good cause. [Statutory Authority: RCW 74.08.090. 79-05-041 (Order 1390), § 388-24-111, filed 4/26/79; 78-09-053 (Order 1330), § 388-24-111, filed 8/22/78.]

**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) Blood relatives (including those of half-blood); father, mother, brother, sister, uncle, aunt, first cousin, nephew or niece. Relationships to persons of preceding generations as denoted by the prefixes of grand, great, or great-great are within this definition.

(ii) Stepfather, stepmother, stepbrother and stepsister. Adoption of a child by a stepparent changes the relationship from stepparent to adoptive parent.

(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.

All relationships shall be verified in accordance with WAC 388-38-200.

(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 exercises 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) 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 ninety days the monthly grant standard shall be as specified in WAC 388-29-125.

(ii) 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.

(iii) Visits in which the child or responsible relative is away from home for ninety 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 ninety days, eligibility is redetermined in accordance with the new circumstances.

(iv) 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) CSO 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.

(v) Temporary placement of the child in foster care while the parent is temporarily receiving care in a residential treatment facility, where such absences do not exceed thirty days.

(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.

(e) An AFDC payment can be made to the caretaker relative in behalf of a child even if the child is in foster care. The caretaker relative can apply for and receive AFDC for him/herself and the child for thirty days,

even though the child is not physically in the custody of the relative if:

(i) The caretaker relative is otherwise eligible,

(ii) The child is returned to the relative's home before the end of that thirty day assistance period,

(iii) No AFDC payments are being made for the child, either in another relative's home or through AFDC-FC in that same thirty day period. [Statutory Authority: RCW 74.08.090. 79-08-043 (Order 1417), § 388-24-125, filed 7/19/79; 78-10-036 (Order 1338), § 388-24-125, filed 9/18/78; 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-- Employable parent--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 a parent or stepparent who satisfies all the requirements in this section to qualify the assistance unit.

A parent or stepparent is considered to be unemployed when:

(a) He/she is employed less than one hundred hours a month, or

(b) He/she exceeds that standard for a particular month if his/her work is intermittent and the excess is of a temporary nature as evidenced by the fact that he/she was under the one hundred-hour standard for the two prior months and is expected to be under the standard during the next month.

(2) Whose parent or stepparent has been unemployed as defined in subsection (1) for at least thirty days prior to the date AFDC-E is authorized.

When AFDC-E is terminated due to full-time employment of the unemployed parent or stepparent, 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.

(3) Whose unemployed parent or stepparent 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 thirty-day period. (See WAC 388-57-025 and 388-57-030).

(4) Who meets the eligibility conditions specified in WAC 388-24-040 and 388-24-090 through 388-24-125.

(5) Whose parent or stepparent, unless exempted by WAC 388-24-107(1)(a), (b), (c) or (d) is registered for the WIN/E&T program, or, if exempt under WAC 388-24-107(1)(c) is registered for employment with the local DES office.

(6) Whose unemployed parent or stepparent has applied for and is accepting any unemployment compensation to which he/she is entitled.

(7) Whose unemployed parent or stepparent:

(a) Has had six or more quarters of work within any thirteen-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 fifty dollars, or in which he participated in the work incentive (WIN) 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/her application received unemployment compensation or if the employment which he/she had was not covered under the unemployment compensation law of the state or the United States, his/her earnings were such that had his/her employment been covered, he/she would have been eligible.

(8) Whose unemployed parent or stepparent:

(a) In non-WIN areas is registered for and accepts on an ongoing basis employment and training services.

(b) In WIN areas is registered for and accepts the services defined in subdivision (a) of this subsection if not accepted into a WIN component.

(9) Who is living with both natural or adoptive parents or a parent and stepparent except that one may be temporarily absent to search for employment with the expectation of continuing to live with the family;

(10) AFDC will not be denied or terminated solely because of an individual's participation in institutional and work experience training or in public service employment under the WIN program;

(11) When both parents are unemployed and meet the work quarters criteria, they have the option to choose which parent will satisfy all the requirements to qualify the assistance unit for AFDC-E. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-24-135, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-24-135, filed 2/15/79; 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 CSO 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 unless some other type of deprivation exists.

(b) Assistance will be continued only when the change in circumstances has been reported as specified in WAC 388-38-255.

(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 parent or stepparent who qualifies the assistance unit for AFDC-E obtains employment, subsection (4) is applicable.

(4) If there is no other basis for deprivation, when an unemployed parent or stepparent who qualifies the assistance unit for AFDC-E obtains fulltime employment as defined in WAC 388-24-135(1)(a) or (b), assistance is continued, if otherwise eligible, until the end of the month in which he/she receives his/her pay for the first one hundred hours of employment or until the end of the next calendar month whichever is earlier. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-24-137, filed 10/23/79. Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-24-137, filed 9/18/78; Order 1198, § 388-24-137, filed 3/17/77; Order 923, § 388-24-137, filed 4/15/74.]

**WAC 388-24-260 Emergency assistance--Standards--Duration.** (1) Standards for requirements shall be as provided in WAC 388-29-100 through 388-29-270.

(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. Assistance can be issued for one or more unconnected sequence of days within that thirty day period, however.

(4) Emergency assistance shall not be utilized for AFDC recipients except for AFDC recipients from another state when it is determined that such individuals are detained in Washington for reasons beyond their control and as a result of events which could not have been reasonably anticipated or they have decided to become residents. Assistance, under these circumstances, shall be limited to meeting the emergent needs only as specified in WAC 388-24-250. [Statutory Authority: RCW 74.08.090. 78-12-001 (Order 1355), § 388-24-260, filed 11/3/78; Order 1176, § 388-24-260, filed 12/23/76; Order 969, § 388-24-260, 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 388-29-190. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-24-270, filed 9/18/78; 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, 388-26-128 and 388-38-220 through 388-38-230. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-24-275, filed 9/18/78; Order 1004, § 388-24-275, filed 1/24/75.]

#### Chapter 388-28 WAC

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

##### WAC

388-28-155	Repealed.
388-28-355	Presumptive spouse.
388-28-430	Effect of resources and income on financial need— Personal property exemptions—Ceiling values.
388-28-440	Accumulation and depletion of allowable cash resource reserves.
388-28-457	Transfer of property.
388-28-459	Transfer of property with intent to qualify for public assistance.
388-28-460	Transfer within two years prior to application.
388-28-461	Transfer of property—Adequate consideration.
388-28-462	Transfer of property—Exceptions.
388-28-464	Transfer of property—Assistance during period of ineligibility.
388-28-474	Replacement of exempt property.
388-28-480	Use of income and income potentials—Types of income—Effect on need.
388-28-484	Treatment of newly acquired nonexempt income and resources.
388-28-500	Use of income and income potentials—Computing and allocating income.
388-28-515	Net cash income—Determination—Employment or training expenses—Deductions from gross income.
388-28-520	Self-employment.
388-28-525	Repealed.
388-28-530	Net cash income—Board, room rental, board and room.
388-28-535	Net cash income—Determination—Deductions from gross income—Income of child.
388-28-575	Disregard of income and resources.
388-28-600	Determination of net income—in-kind.

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

388-28-155	Standards for additional requirements under specified circumstances—Child care expenses for employed person. [Order 1236, § 388-28-155, filed 8/31/77.] Repealed by 78-06-086 (Order 1303), filed 6/2/78. Statutory Authority: RCW 74.04.510 and 74.08.090.
388-28-525	Net cash income—Self-employment income and expenses. [Order 891, § 388-28-525, filed 12/27/73;

Regulation 8.842, filed 1/24/64.] Repealed by 79-04-013 (Order 1369), filed 3/15/79. Statutory Authority: RCW 74.08.090.

**WAC 388-28-155 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-28-355 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), 388-29-020 and 388-29-080(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. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-28-355, filed 9/18/78; 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 388-28-430 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, and inventory, can be declared an exempt resource by the CSO on the basis of an agreed plan. The following conditions apply:

(i) The exempted property either must produce income which reduces the applicant/recipient's need for public assistance, or it must aid in rehabilitating him or his dependents by providing self-employment experience which can reasonably be expected to lead to full or partial self-support.

(ii) If stock, raw materials, or inventory of a business are exempted, any increase in their value must be examined to determine whether the increase is necessary to the health of the enterprise. Such increase shall not be used as a means of diverting funds which might reasonably constitute income to the recipient.

(iii) The plan shall be reviewed at least once every six months.

(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.

(ii) A joint account shall be considered the property of the applicant/recipient since the entire amount is at his/her disposal, except when the applicant/recipient can show that all or a portion of the funds deposited within the joint account is derived from funds exclusively the other joint holder's and held/utilized solely for the benefit of that joint account holder. All funds within the joint account so verified shall not be considered actually available to the applicant/recipient.

(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.

(D) An assigned funeral contract shall be treated according to (ii)(B) of this subdivision. 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 personal property resource in combination with the value of other exempt 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. [Statutory Authority: RCW 78.08.090. 79-04-013 (Order 1369), § 388-28-430, filed 3/15/79; 78-04-036 (Order 1282), § 388-28-430, filed 3/20/78; 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; 12/21/64, effective 2/1/65; 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 388-28-484. 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. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-28-440, filed 9/18/78; Order 1224, § 388-28-440, filed 7/19/77.]

**WAC 388-28-457 Transfer of property.** WAC 388-28-457 through 388-28-465 deal 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 eligibility of the applicant. [Statutory Authority: RCW 74.08.090. 78-05-088 (Order 1293), § 388-28-457, filed 5/3/78; Order 1241, § 388-28-457, 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 by the applicant, the department shall investigate the facts of the transfer of the nonexempt property on the presumption that an applicant made the transfer with intent to qualify for assistance only when:

(a) He has transferred nonexempt property for an inadequate consideration within two years immediately prior to application, that is, the transfer has failed to meet one or more of the conditions of WAC 388-28-461, and

(b) Such transfer has reduced the applicant's nonexempt property holdings to the extent that the remaining holdings are within the department's resource limit.

(2) The applicant shall have the opportunity to demonstrate that the transfer was for reasons other than to qualify for public assistance.

(a) Reasons (noninclusive) contained within WAC 388-28-462 shall, if proven, establish that the transfer was not for the purpose of qualifying for public assistance.

(3) If the applicant does not overcome the presumption, the rules in WAC 388-28-460 pertain and shall be followed. [Statutory Authority: RCW 74.08.090. 78-05-088 (Order 1293), § 388-28-459, filed 5/3/78; 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 nonexempt 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/her needs under normal conditions of living. Personal property as used in this rule means any form of nonexempt 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 years. [Statutory Authority: RCW 74.08.090. 78-05-088 (Order 1293), § 388-28-460, filed 5/3/78; 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.

(c) The transfer of property due to a legally enforceable foreclosure procedure.

(d) The transfer of property by an accelerated sale due to necessity to relocate to accept employment or training or to retain a cohesive family unit.

(5) Debts incurred from the services of a minor child or for loans from a minor child are not recognized as legal obligations. [Statutory Authority: RCW 74.08.090, 78-05-088 (Order 1293), § 388-28-461, filed 5/3/78; Order 1241, § 388-28-461, filed 9/23/77.]

**WAC 388-28-462 Transfer of property--Exceptions.** The following circumstances are examples of transfers of nonexempt property which shall not be considered a transfer with intent to qualify for assistance regardless of the consideration received.

(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) At the time of the transfer, the applicant was not receiving assistance and did not consider any probable need for assistance in the foreseeable future. The information provided by the applicant shall be verified in accordance with the rules on verification.

(3) 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.

(4) The applicant held title only as a trustee for the use and benefit of another person with no beneficial interest himself.

(5) The transfer was to clear title to property in which the applicant had no real beneficial enforceable interest.

(6) 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. [Statutory Authority: RCW 74.08.090, 78-05-088 (Order 1293), § 388-28-462, filed 5/3/78; Order 1241, § 388-28-462, filed 9/23/77.]

**WAC 388-28-464 Transfer of property--Assistance during period of ineligibility.** An applicant who transferred nonexempt property to qualify for assistance as determined by investigation by the department and who has been determined not to be in need for a future period of time, not to exceed two years, shall be granted public assistance only if undue hardship exists. Assistance paid under this rule shall not be considered an overpayment. [Statutory Authority: RCW 74.08.090, 78-06-023 (Order 1293A), § 388-28-464, filed 5/16/78; 78-05-088 (Order 1293), § 388-28-464, filed 5/3/78; Order 1241, § 388-28-464, filed 9/23/77.]

**WAC 388-28-474 Replacement of exempt property.** A recipient may, within sixty days of receipt, reinvest in other exempt property funds acquired from a settlement covering destroyed or stolen exempt property. A recipient may retain enough cash from the settlement to bring cash savings up to the cash resource ceiling in accordance with the size of the assistance unit. Any remaining portion of the settlement shall be considered newly acquired nonexempt income. [Statutory Authority: RCW 74.08.090, 78-06-088 (Order 1302), § 388-28-474, filed 6/2/78; Order 1241, § 388-28-474, filed 9/23/77.]

**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.

(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 twenty-first day of the month.

(c) Income received during the month and reported after the twenty-first 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 twenty-first day of the month in which it is reported shall be treated as an overpayment.

(4) Deleted

(5) Irregular income up to five dollars per month received by an applicant may be disregarded towards meeting need by the ESSO if the probability exists that such future income will not be appreciable.

(6) Deleted

(7) Deleted

(8) Any contractually agreed loan acquired by an applicant/recipient which commits all funds for a specific purpose other than current maintenance, and so expended, shall not be taken into account as income. The property used as collateral for the loan shall not be included in determining property reserves. The equity accumulated in the specified property shall be considered toward the resource ceiling.

(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. 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. [Statutory Authority: RCW 74.08.090, 78-10-073 (Order 1347), § 388-28-480, filed 9/27/78; 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 388-28-484 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 twenty-first 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 twenty-first 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) 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 reapplies shall be determined on the same basis as a new applicant.

(3) If income is not taken into account in assistance payments but is subsequently discovered, an overpayment shall be established. The effective dates for treatment of income specified in subsection (1) shall be used in establishing the period during which the overpayment occurred.

(a) If the income is recurrent and less than one month's requirements minus other income, the overpayment shall be the amount of the nonexempt portion of the income;

(b) If the income is recurrent and equal to or in excess of one month's requirements minus other income, the overpayment shall be the total assistance received during the period in which the income should have been taken into consideration;

(c) If the income is nonrecurrent and less than two months' requirements minus other income, the overpayment shall be the amount of the nonexempt income;

(d) If the income is nonrecurrent and the nonexempt portion is in excess of two months' requirements minus other income, the overpayment shall be the total assistance paid for two months.

(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. [Statutory Authority: RCW 74.08.090, 79-06-029 (Order 1396), § 388-28-484, filed 5/16/79; Order 1241, § 388-28-484, filed 9/23/77.]

**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 chapter 388-29 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. [Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-28-500, filed 9/18/78; 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) The thirty dollars monthly incentive payment made by WSES to any participant in a WIN program of institutional and work experience training is disregarded in AFDC.

(b) The thirty dollars weekly incentive payment received by a CETA participant is disregarded in AFDC.

For continuing general assistance such payments are considered available to meet need.

(c) 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 (6) shall be deducted from the gross training allowance received.

(4) Personal and nonpersonal work expenses computed according to subdivisions (4)(a) through (6) shall be deducted from earnings according to the method outlined in WAC 388-28-570(8).

Work related expenses other than child care shall be deducted in accordance with the "percentage method" or the "actual method", whichever is chosen by the client.

(a) If the client chooses the "percentage method", twenty percent of the gross income shall be deducted.

(b) If the client chooses the "actual method", the actual cost of each work related expense shall be deducted. This method shall be used when the client provides written verification of all work related expenses claimed.

(c) The client shall have the option to change methods whenever he/she reports income to the CSO.

(d) When the client changes methods, the provisions in WAC 388-33-135 and 388-33-140 shall apply.

(5) The following work related expenses shall be deducted when claimed and verified under the actual method.

(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 and to and from child care provider in accordance with the following limitations:

(i) The most economical means of transportation shall be used.

(ii) When public transportation is available near the recipient's regular place of residence and practical for his/her use, the allowance shall be the cost for such transportation from the recipient's 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 unless no other means of public transportation is available.

(iv) When public transportation is not available or not practical for his/her use, a recipient who shows that he/she uses a vehicle to travel to and from employment or the training facility shall be allowed the actual cost of such transportation provided that the recipient furnishes verification of these costs. Shared rides shall be prorated on an equitable basis, depending on the travel plan.

(A) The actual work related cost of operating the vehicle shall be the total operating cost of the vehicle times the percentage obtained from dividing the actual monthly mileage to and from work by the total miles driven during the month.

(B) The total operating cost of a vehicle shall be limited to gas, oil and fluids; necessary service and repairs; replacement of worn items such as tires; registration and licensing fees; and depreciation and interest on automobile loans.

(v) When the client so chooses, eight cents per mile shall be allowed to cover the work-related costs of gas, oil, fluids, and depreciation.

(c) The cost of tolls and parking required for employment shall be deducted as a work related expense.

(d) Expenses of employment necessary for continued employment, such as tools, materials, union dues, fees to employment agencies incurred via a legally binding contract, cost of special uniforms and laundering, and transportation to service customers if not furnished by the employer.

(e) The additional cost of clothing provided that it is verified that such clothing is necessary for continued employment.

(6) For individuals enrolled in a remedial education or vocational training course, the actual cost of uniforms and/or special clothing, as priced by the CSO, shall be deducted.

(7) 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 388-29-150 and 388-29-155.

(8) These rules shall be effective March 1, 1979, for income received after that date. [Statutory Authority: RCW 74.08.090. 79-06-007 (Order 1393), § 388-28-515, filed 5/8/79; 78-10-036 (Order 1338), § 388-28-515, filed 9/18/78; 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 388-28-520 Self-employment.** (1) Earned income from self-employment is the amount left after deducting business expenses from gross business income. The applicable program earnings exemptions, plus personal and nonpersonal work expenses, are further deducted from self-employment earned income to determine the net amount available to meet need. See WAC 388-28-515 and 388-28-570(8).

(a) In order to establish eligibility for public assistance, a self-employed person must maintain and make available to the department a record which clearly documents all claimed business expenses and income.

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

(2) Expenses for the following items are deductible business expenses in a self-employment enterprise:

- (a) Rental of business equipment or property.
- (b) Utilities.
- (c) Postage.
- (d) Telephone.
- (e) Office supplies.
- (f) Advertising.
- (g) Insurance.
- (h) Legal, accounting, and other professional fees.
- (i) The cost of goods sold, including wages paid to employees producing salable goods, raw materials, stock, and replacement or reasonable accumulation of inventory, provided that inventory has been declared exempt on the basis of an agreed plan pursuant to WAC 388-28-430(1)(d). See also subsection (4) of this section.
- (j) Interest on business indebtedness.
- (k) Wages and salaries paid to employees not producing salable goods.
- (l) Commissions paid to agents and independent contractors.

(m) Transportation essential to the business may be computed according to the actual documented work related cost of operating the vehicle.

(i) The total operating cost of a vehicle shall be limited to gas, oil, and fluids; necessary services and repairs; replacement of worn items such as tires; registration and licensing fees; and interest on automobile loans.

(ii) When the client so chooses, eight cents per mile shall be allowed to cover the work related costs of gas, oil and fluids.

(iii) The cost of tolls and parking related to the business shall be deducted as a business expense.

(iv) If a vehicle is needed for both business and private purposes, the mileage and expenses attributable to the business must be documented in a daily log and is subject to verification by the department.

(v) Transportation to and from the place of business is not a business expense, but is a personal work expense to be treated according to WAC 388-28-515(5).

(n) Nonpersonal taxes on the business and business property, including the employer's share of federal social security taxes on business employees and state and federal unemployment insurance contributions, if any. The self-employed person's personal income taxes and self-employment taxes (FICA) are not business deductions, but are treated separately according to WAC 388-28-515 and 388-28-570(8).

(o) Repairs to business equipment and property, excluding vehicles. An expenditure which maintains property in its usual working condition is deductible as a repair.

(p) Other expenditures which are reasonable and necessary to the efficient and profitable operation of the self-employment enterprise.

(3) Expenses for the following items are not deductible business expenses in a self-employment enterprise:

(a) Capital expenditures. Capital expenditures are those made to acquire or increase the value of fixed assets. Fixed assets are items normally in use for one year or longer, such as land, buildings, vehicles, boats, machinery, tools, office equipment, furniture, and fixtures.

(b) Payments on the principal of loans to the business.

(c) Amounts claimed as depreciation.

(d) Any amount claimed as a net loss sustained in any prior period.

(4) The business assets of a self-employment enterprise, including inventory, are nonexempt resources available to the owner in the amount of their sale value less encumbrances, unless they are generally exempt under the provisions of WAC 388-28-430 or specifically exempted on the basis of an agreed plan pursuant to WAC 388-28-430(1)(d). See also WAC 388-28-420(2)(e).

(a) Accounts receivable are resources in the amount of their face value, subject to an offering of proof by the self-employed person that their value is less than face value because efforts to collect them have been unsuccessful. In such case, the department shall require that the accounts be turned over to a collection agency. They then have no value until collection is made.

(b) Good will is an intangible asset. It has no value unless the business is sold, and therefore is not an available resource. [Statutory Authority: RCW 78.08.090, 79-04-013 (Order 1369), § 388-28-520, filed 3/15/79.]

**WAC 388-28-525 Repealed.** See Disposition Table at beginning of this chapter.

**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, 1979:

(a) Boarder - The board payment received minus \$61,

(b) Roomer - The room rental received minus \$5.50,

(c) Boarder and roomer - The board and room payment received minus \$66.50.

(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.

(3) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090, 79-10-083 (Order 1434), § 388-28-530, filed 9/21/79; 78-10-054 (Order 1344), § 388-28-530, filed 9/22/78; 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 388-28-535 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.

(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 combined resource ceiling maximum.

(4) Earnings received by any person under Title III, Part C, Youth Employment Demonstration Program of the Comprehensive Employment and Training Act of 1973, Public Law 93-203 shall be disregarded in determining need and the amount of the public assistance payment under any federally assisted programs. [Statutory Authority: RCW 74.08.090. 78-05-019 (Order 1287), § 388-28-535, filed 4/13/78; 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 8/27/68; Regulation 8.844, filed 10/4/67; Regulation 8.844, filed 5/17/67, 3/31/66, 6/17/64, 1/24/64.]

**WAC 388-28-575 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.

(g) Moneys received under The Comprehensive Employment and Training Act of 1973, as amended, as follows:

(i) The \$30 weekly incentive training allowance for AFDC recipients;

(ii) Earnings and allowances received by any youth under the youth incentive entitlement pilot projects, youth community conservation and improvement projects and youth employment and training program.

(h) Retroactive AFDC benefits resulting from a court order modifying a department policy. This subdivision is effective April 1, 1978.

(i) OASDI benefits paid to 18 to 22 year olds who are full-time students.

(j) That part of a veterans' administration educational assistance payment which is for the student's educational expenses, such as, but not limited to, tuition, books, fees, equipment, transportation for school purposes and child care services necessary for school attendance.

(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.

(c) 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.

(d) Any compensation provided volunteers in ACTION programs established by Title I of Public Law 93-113, the Domestic Volunteer Service Act.

(e) Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended and the special food service program for children under the National School Lunch Act, as amended.

(f) Payments made under the Community Services Administration's Emergency Energy Conservation Program of 1979. [Statutory Authority: RCW 74.09.090. 79-06-027 (Order 1399), § 388-28-575, filed 5/16/79; Statutory Authority: RCW 74.08.090. 78-09-038 (Order 1324), § 388-28-575, filed 8/17/78; 78-05-019 (Order 1287), § 388-28-575, filed 4/13/78; 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 388-28-600 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 388-29-100(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. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-28-600, filed 9/18/78; 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 7/12/65; Regulation 8.850, filed 1/24/64.]

**Chapter 388-29 WAC  
AID TO FAMILIES WITH DEPENDENT  
CHILDREN AND CONTINUING GENERAL  
ASSISTANCE--ELIGIBILITY--STANDARDS OF  
ASSISTANCE**

	Recipients in Household	State Standard	Area Differential for King, Pierce, Snohomish, Kitsap and Thurston Counties	State Standard Plus Area Differential for King, Pierce, Snohomish, Kitsap and Thurston Counties
WAC	4	453	30	483
388-29-100	5	523	30	553
388-29-110	6	593	30	623
	7	663	30	693
388-29-125	8	733	30	763
	9	803	30	833
388-29-130	10	873	30	903
	11	943	30	973
388-29-135	12	1,013	30	1,043
	13	1,083	30	1,113
388-29-140	14	1,153	30	1,183
	15	1,223	30	1,253
388-29-145	16	1,293	30	1,323
388-29-150	17	1,363	30	1,393
	18 or more	1,433	30	1,463

- (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

388-29-200	Standards for additional requirements under specified circumstances—Food for guide dog.	1	\$ 143
388-29-220	Standards for additional requirements under specified circumstances—Laundry.	2	208
388-29-230	Winterizing homes.	3	276
388-29-260	Requirements of person in boarding home—Continuing general assistance.	4	344
388-29-270	Additional requirements for emergent situations—AFDC.	5	412
388-29-280	Adult family home care—Cost standards.	6	480
		7	548
DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER		8	616
		9	684
388-29-140	Monthly standards for basic requirements—AFDC—Child living with relative not in need. [Statutory Authority: RCW 74.08.090]. 78-04-035 (Order 1281), § 388-29-140, filed 3/20/78; Order 1241, § 388-29-140, filed 9/23/77.] Repealed by 78-06-074 (Order 1297), filed 5/31/78, effective 7/1/78. Statutory Authority: RCW 78.08.090 [74.08.090].	10	752
		11	820
		12	888
		13	956
		14	1,024
		15	1,092
		16	1,160
		17	1,228
		18 or more	1,296

**WAC 388-29-100 Monthly standards for basic requirements—AFDC and continuing general assistance.**

(1) The state-wide 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, Kitsap and Thurston Counties	State Standard Plus Area Differential for King, Pierce, Snohomish, Kitsap and Thurston Counties
1	\$220	\$13	\$233
2	305	34	339
3	383	30	413

(4) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-100, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-100, filed 7/28/78; Order 1241, § 388-29-100, filed 9/23/77.]

**WAC 388-29-110 Maximums to monthly standards for basic requirements.** (1) 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 388-29-100.

		Number of recipients in household					
		7	8	9	10	11	12
Maximum		\$694	\$727	\$758	\$787	\$814	\$839
		13	14	15	16	17	18
Maximum		\$862	\$883	\$902	\$919	\$934	\$947

(2) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-110, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-110, filed 7/28/78; 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 \$32.50.

(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 \$32.50.

(3) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-125, filed 9/21/79; 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. SSI grant deductions for overpayments shall first reduce the money available for clothing, personal maintenance and necessary incidentals and then reduce the money available to meet the cost of CCF care. The department shall not pay the difference toward cost of care caused by the SSI reduction.

(3) The monthly cost standard for clothing, personal maintenance, and necessary incidentals for a person in a congregate care facility shall be \$32.50.

(4) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-130, filed 9/21/79; 79-04-036 (Order 1379), § 388-29-130, filed 3/22/79; 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 \$457.80 per month, which includes \$32.50 for 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.

(3) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-135, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-135, filed 7/28/78; Order 1241, § 388-29-135, filed 9/23/77.]

**WAC 388-29-140 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-29-145 Monthly standards for basic requirements--AFDC--Child in need of specialized education or training.** (1) 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 \$32.50. The child shall not be included as a member of the household in computing the requirements for the household.

(2) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-145, filed 9/21/79; Order 1241, § 388-29-145, filed 9/23/77.]

**WAC 388-29-150 Standards for additional requirements under specified circumstances.** Additional requirements under specified circumstances shall be handled as follows, except for the additional requirements for emergent situations in AFDC, which are set forth in WAC 388-29-270.

(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. When the requirement is ongoing, it 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 ongoing 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 ongoing additional requirement must be reestablished as often as the case plan indicates, but at least semiannually, except where it is established that there is a continuing need that is likely not subject to change. [Statutory Authority: RCW 74.08.090. 78-12-001 (Order 1355), § 388-29-150, filed 11/3/78; Order 1241, § 388-29-150, filed 9/23/77.]

**WAC 388-29-155 Standards for additional requirements under specified circumstances—Child care expenses for employed persons.** (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.

(a) Out-of-home day care

(i) An additional requirement shall be authorized for licensed out-of-home day care. Licensure is not required of those persons exempted in RCW 74.15.020.

(ii) Recipients utilizing unlicensed out-of-home day care will be given thirty days to obtain appropriate care. Such thirty-day period shall begin on the date the client is given written notice of this requirement. Payment will not be withheld from recipients whose out-of-home day care provider has made application for licensure.

(iii) The part-time payment standard for day care of less than seven hours per day shall be \$1.04 per hour for each child.

(iv) The full-time payment standard for day care of seven hours or more per day shall be \$7.27 per day for each child.

(b) In-home child care

(i) The payment standard for in-home care shall be \$1.04 per hour for the care of three children or less in the family, or \$1.35 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.

(4) The payment standards in subsection (2)(a) and (b) of this section may be exceeded provided that the actual rate is the least expensive rate available to the client, for the type of care required.

(5) Payment based upon the rate incurred through an enrollment contract can be made provided that:

(a) The requirements in subsection (4) of this section are met; and

(b) No other noncontractual child care is reasonably available to the client; and

(c) Any absence in excess of two days per month is attributable to illness.

(6) "Enrollment contract" shall be defined as a legally binding written agreement between a client and a day care facility in which fees are set on the basis of the child's registration for attendance in the facility.

(7) These rules shall be effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-155, filed 9/21/79; 79-06-007 (Order 1393), § 388-29-155, filed 5/8/79; 78-09-047 (Order 1327), § 388-29-155, filed 8/21/78. Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-29-155, filed 6/2/78.]

**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 \$72.40.

(3) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-160, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-160, filed 7/28/78; 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 \$3.85 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.

(4) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-170, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-170, filed 7/28/78; 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 CSO 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 the CSO, 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 CSO's request. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-180, filed 9/21/79; 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 an AFDC, 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. [Statutory Authority: RCW 74.08.090. 78-12-001 (Order 1355), § 388-29-190, filed 11/3/78; Order 1241, § 388-29-190, filed 9/23/77.]

**WAC 388-29-200 Standards for additional requirements under specified circumstances--Food for guide dog.** (1) 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 \$23.25.

(2) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-200, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-200, filed 7/28/78; Order 1241, § 388-29-200, 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 \$6.35.

(3) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-220, filed 9/21/79; 78-08-084 (Order

1321), § 388-29-220, filed 7/28/78; 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 subdivisions (a) through (d) of this subsection.

(2) All expenditures for repairs shall be paid by vendor payments when there is sufficient recorded evidence that the home repair was performed. [Statutory Authority: RCW 74.08.090. 79-04-060 (Order 1385), § 388-29-230, filed 3/28/79; 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 \$160.00 per month or \$5.26 per day.

(2) The monthly standard for clothing and personal maintenance and necessary incidentals shall be \$27.50.

(3) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-260, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-260, filed 7/28/78; Order 1241, § 388-29-260, filed 9/23/77.]

**WAC 388-29-270 Additional requirements for emergent situations--AFDC.** (1) Additional requirements shall be allowed in the following emergent situations. In no instances is the payment under this section to exceed one month's assistance standards as set in WAC 388-29-100.

(a) To secure housing and necessary clothing in the event of a natural disaster such as flood or fire and relief is not available under WAC 388-53-010 et seq.;

(b) In case of loss or theft of the cash proceeds of a warrant, assistance will be limited to the emergent need only;

(c) Imminent eviction, where a formal notice of eviction has been received, only in an amount needed to prevent the eviction or to secure new housing, but only if the basis of eviction is not a delinquency in payment resulting from a fault of the client;

(d) Sudden malfunction resulting in loss of heat, water, electricity or cooking facilities and the recipient is legally responsible for the repairs and winterization



funds are not available; limited to actual costs of repairs or replacement when there is no other alternative;

(e) A notice of impending utility shutoff issued by the company providing the service, and only in the amount needed to prevent shutoff; or it is otherwise verified by the CSO that the applicant or recipient is without necessary fuel for heating or cooking and only in the amount to meet the emergent need. Assistance is limited to situations where the emergent need occurred due to conditions beyond the control of the recipient;

(f) Housing needs caused by an abusive spouse will be limited to established fees paid to shelters especially for abused spouses;

(g) Inoperable vehicle which is necessary to continue employment and where public transportation is not available; limited to actual costs of repairs.

(2) Emergency assistance as defined in WAC 388-24-260, shall be provided to AFDC recipients from another state when it is determined that such individuals are detained in Washington for reasons beyond their control and as a result of events which could not have been reasonably anticipated or they have decided to become residents. [Statutory Authority: RCW 74.08.090. 78-12-001 (Order 1355), § 388-29-270, filed 11/3/78; Order 1241, § 388-29-270, filed 9/23/77.]

#### WAC 388-29-280 Adult family home care--Cost standards.

(1) The cost standard for adult family home care shall be the rate established by the department for payment to the adult family home sponsor.

(2) The monthly cost standard for clothing and personal maintenance and necessary incidentals for a person in an adult family home shall be \$32.50.

(3) These standards are effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-29-280, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-280, filed 7/28/78; 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

388-33-015	Payment of grant--Persons included.
388-33-120	Effective date of eligibility--Exceptions.
388-33-376	Advance and adequate notice--Suspension--Termination--Reduction of grant.
388-33-377	Grant continuation pending fair hearing.
388-33-378	Repealed.
388-33-380	Repealed.
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.
388-33-595	One-time grant--Authorization--Disbursement.
388-33-630	Immediate warrants issued by ESSO.

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

388-33-378	Determination--Notification. [Order 906, § 388-33-378, filed 2/14/74; Order 747, § 388-33-378, filed 12/7/72.] Repealed by 78-08-053 (Order 1320), filed 7/20/78. Statutory Authority: RCW 74.08.090.
388-33-380	Notification of suspension or termination or reduction of grant. [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.] Repealed by 78-08-053 (Order 1320), filed 7/20/78. Statutory Authority: RCW 74.08.090.

**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 388-29-080 and 388-28-500. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-33-015, filed 9/18/78; 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 388-33-120 Effective date of eligibility--Exceptions. (1) Change of category

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 388-28-484 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.

(5) Incapacity redetermined after termination of GAU. See WAC 388-37-040(3). [Statutory Authority: RCW 74.08.090, 79-06-028 (Order 1398), § 388-33-120, filed 5/16/79; 78-10-036 (Order 1338), § 388-33-120, filed 9/18/78; 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 388-33-376 Advance and adequate notice--Suspension--Termination--Reduction of grant.** (1) In cases of planned actions to terminate, suspend or reduce grants to recipients of AFDC, GA, medical assistance, or medical only, 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 planned action is not required as provided in WAC 388-33-385:

(a) Notification of planned 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) of this section.

(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. [Statutory Authority: RCW 74.08.090, 78-08-053 (Order 1320), § 388-33-376, filed 7/20/78.]

**WAC 388-33-377 Grant continuation pending fair hearing.** (1) When a recipient (of medical benefits, AFDC or general assistance payments) 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 388-33-376, assistance shall be continued, if the decision being appealed relates to proposed reduction, suspension, or termination.

Such payment continues through the month of the fair hearing in all cases in which a fair hearing is requested, unless the request is withdrawn in writing by the claimant or abandoned.

(2) 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.

(a) If there is an issue of fact or judgment including the correctness of application of the department's rules and policy, assistance will then continue through the month in which a fair hearing decision is rendered.

(b) If the issue is one of policy, assistance is discontinued at the end of the month in which the hearing is held. The department shall promptly inform the client in writing if assistance will not be continued, based on the above determination that the issue is one of policy.

(3) 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.

(4) 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.

(5) Assistance shall not be continued under the provisions in this section if the claimant requests in writing that assistance not be continued.

(6) 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. [Statutory Authority: RCW 74.08.090, 78-08-053 (Order 1320), § 388-33-377, filed 7/20/78; 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 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-33-380 Repealed.** See Disposition Table at beginning of this chapter.

**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 388-38-270 and 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. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-33-535, filed 9/18/78; Order 747, § 388-33-535, 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 388-38-265. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-33-545, filed 9/18/78; 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 388-38-270. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-33-550, filed 9/18/78; 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 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 replacement warrant shall be issued.

(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 disbursements section. 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 five working days from the mailing date of the warrant to allow the warrant to be delivered or returned to the ESSO. If the recipient has an emergent situation, the five day period may be waived by the ESSO administrator.

(7) Replacement must be requested directly from disbursements when a loss or nonreceipt is reported to the ESSO sixty days or more after the mailing date of the warrant.

(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 warrants 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. [Statutory Authority: RCW 74.08.090. 78-09-062 (Order 1331), § 388-33-576, filed 8/24/78; 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.** When a recipient payee reports to the CSO that the cash proceeds of his warrant, or an endorsed warrant, have been lost, stolen or destroyed, the CSO shall have the recipient payee complete an affidavit attesting to the reported facts.

(1) Replacement of the proceeds of an AFDC warrant in an emergent situation shall be made as an additional requirement according to WAC 388-29-270(1)(b).

(2) Replacement of cash proceeds from warrants other than the AFDC warrants specified in WAC 388-33-577(1) shall be handled as follows:

(a) The CSO shall secure all facts surrounding the loss; 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.

(b) 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. [Statutory Authority: RCW 74.08.090. 78-12-001 (Order 1355), § 388-33-577, filed 11/3/78; Order 1164, § 388-33-577, filed 10/27/76; Order 661, § 388-33-577, filed 3/9/72.]

**WAC 388-33-595 One-time grant--Authorization--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.

(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.

(ii) Income or assistance budgeted as available to the assistance unit or family is not received.

(iii) Supplemental assistance is needed from the date a recipient leaves an institution to the receipt of the regular, adjusting, or reinstated grant.

(iv) The fair hearing decision or the court decision on an appeal requires initiating, reinstating or increasing a grant.

(v) A recipient is to be compensated for an underpayment due to erroneous monthly deduction(s).

(vi) 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.

(vii) A person who is added to an assistance unit requires assistance prior to the effective date of his inclusion in a regular grant.

(viii) A canceled warrant is to be reissued and the recipient cannot wait for payment by adjusting grant.

(ix) A change in the basic requirements which results in an increase in the regular grant occurs.

(x) 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.

(xi) 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)(iv), (2)(c)(v), and (2)(c)(xi), a retroactive one-time grant shall not cover a period of more than sixty days before the date of authorization.

(e) The effective date of a one-time grant shall be the authorization date. [Statutory Authority: RCW 74.08-090. 78-09-073 (Order 1332), § 388-33-595, filed 8/25/78; 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 388-33-630 Immediate warrants issued by ESSO.** (1) An immediate warrant (instant cash) 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 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 of noncontinuing general assistance;

(d) For a one-time grant when this form of payment is approved by the financial supervisor;

(e) For an applicant who is in immediate need and has no cash resources on hand to meet the 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.

(2) An instant cash warrant is issued in the name of the eligible payee and not to a vendor. [Statutory Authority: RCW 74.08.090. 78-11-044 (Order 1351), § 388-33-630, filed 10/20/78; 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.]

### Chapter 388-34 WAC

#### PERSON IN INSTITUTION--ELIGIBILITY-- PAYMENT

##### WAC

388-34-095	Fraternal, religious, or benevolent home.
388-34-125	Psychiatric hospital (JCAH approved)—Standards for requirements.
388-34-150	Other homes.
388-34-160	Grant change—Admittance to institution other than nursing home.

**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 bylaws 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 388-29-260 through 388-29-270 for requirements of a person living in a fraternal or religious home on a board and room basis. [Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-34-095, filed 9/18/78; 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 388-34-125 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 388-29-125 (see WAC 388-95-215(5)). [Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-34-125, filed 9/18/78; 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 388-34-150 Other homes.** (1) The standards for requirements in WAC 388-29-260 through 388-29-270 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. [Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-34-150, filed 9/18/78; 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 388-28-482 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 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. [Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-34-160, filed 9/18/78; Regulation 11.80, filed 1/24/64.]

### Chapter 388-35 WAC

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

WAC	
388-35-010	Conditions of eligibility.
388-35-020	Determination of financial need.
388-35-030	Certification period.
388-35-050	Assistance units—Eligible persons.
388-35-060	Reapplication.
388-35-070	Noncontinuing general assistance—Requirements.

**WAC 388-35-010 Conditions of eligibility.** GAN shall be granted to persons who meet all of the following eligibility conditions:

(1) Are in financial need as defined in subsequent sections of this chapter.

(2) Are not eligible for, receiving, or having their needs met by AFDC, Emergency Family Assistance, SSI, GAU or Refugee Assistance.

(3) Have taken all steps necessary to make themselves eligible for AFDC, Emergency Family Assistance, SSI, GAU or Refugee Assistance.

(4) Are not under any sanction for failure to comply with the eligibility requirements of AFDC, Emergency Family Assistance, SSI, GAU or Refugee Assistance:

(a) AFDC and GAU applicants who are waiting for an incapacity decision to be made may be granted GAN until the date of the eligibility determination for AFDC or GAU;

(b) SSI applicants who are waiting for a disability determination to be made may be granted GAN until the date of receipt of the first SSI payment provided that they have signed an interim assistance agreement in accordance with WAC 388-37-010(2).

(5) Are at least eighteen years old unless:

(a) They are dependent minors who are living with their parents; or

(b) They are minors who are not able to be placed in foster care and who are living outside the parental home and are attending school or a vocational training program approved by the CSO in accordance with WAC 388-57-028.

(6) Are employable unless:

(a) They are AFDC, GAU, or SSI applicants who are waiting for an incapacity or disability determination to be made; or

(b) They expect to be incapacitated for less than 30 days;

(c) They are under sixteen years old.

(7) Are unemployed;

Persons who work less than 100 hours per month shall be considered unemployed.

(8) (a) Are residents of Washington state who live in an identifiable residence;

(b) GAN may be granted to nonresidents for a maximum of 30 days during one fiscal biennium if denial would cause undue hardship.

(9) Have not transferred property contrary to WAC 388-28-457 through 388-28-465.

(10) Are registered for employment with Washington State Employment Security (WSES). Persons are exempt from registration if they are:

(a) Ill or incapacitated; or

(b) Needed in the home to care for an incapacitated person in the household; or

(c) Under sixteen; or

(d) Attending school or a vocational training program approved by the CSO in accordance with WAC 388-57-028; or

(e) A caretaker of a child under twelve; or

(f) AFDC, GAU or SSI applicants who are waiting for an incapacity determination to be made; or

(g) Sixty years of age or older.

(11) (a) Have not refused a bona fide job offer or offer of CSO-approved training or employment and training without good cause within 30 days prior to application or after application;

(b) Have not voluntarily terminated employment or CSO-approved training or employment and training without good cause within 30 days prior to application or after application;

(c) Refusal of a bona fide offer of employment or CSO-approved training or employment and training or voluntary termination of either without good cause within 30 days prior to application or after application shall result in a period of ineligibility of 30 days or until the person accepts employment or training, whichever period is less:

(i) For an applicant, the period of ineligibility shall begin on the date of refusal or termination of employment or training;

(ii) For a recipient, the period of ineligibility shall begin on the day after the current certification ends;

(iii) Conditions which constitute good cause for refusal or termination of employment are defined in WAC 388-57-025(7);

(iv) The following conditions shall constitute good cause for refusal or termination of CSO-approved training or employment and training:

(A) Mental or physical inability of the person to participate in the training;

(B) Inability of the person to get to and from the training site without undue cost or hardship.

(12) Have applied for unemployment compensation if potentially eligible. [Statutory Authority: RCW 74.08.090, 79-11-090 (Order 1447), § 388-35-010, filed 10/25/79; 78-10-031 (Order 1337), § 388-35-010, filed 9/15/78.]

**WAC 388-35-020 Determination of financial need.** Determination of financial need is as described in WAC Chapter 28 except as follows:



(1) Exempt resources and income. The following types of property shall be exempt in determination of financial need:

(a) A home: WAC 388-28-420 shall apply in determining whether real property is used as a home.

(b) A used and useful vehicle when needed for medical reasons or to seek or retain employment. The equity in the vehicle shall not exceed \$1,500.

(c) Used and useful household furnishings;

(d) Used and useful personal effects;

(e) Tools and equipment used and useful in the person's occupation.

(f) Livestock, the products of which are consumed by the applicant and his dependents;

(g) Income as specified in WAC 388-28-575(2).

(2) Nonexempt resources and income. All income and personal and real property not exempted above shall be considered nonexempt in determination of financial need.

(3) 30 days shall ordinarily be considered a reasonable period to clarify the ownership or value of a resource.

(4) Computation of grant amount, treatment of income and resources.

(a) Income received after application and before grant authorization shall be prorated at the GAN standard from the date of application up to the date of grant authorization. Any remainder shall be deducted from the grant.

(b) Income received after grant authorization shall be deducted from the grant during the next period of certification, provided there is no break in assistance.

(c) If there is a break in assistance of 30 days or less, income received after grant authorization shall be prorated at the GAN standard for the period between certifications and any remainder shall be deducted from the following grant.

(d) Cash on hand at the time of grant authorization shall be deducted from the grant if the amount of cash is less than the applicant's needs for the certification period. If the amount of cash on hand is greater than the applicant's needs for the certification period, the applicant shall be ineligible.

(e) A value shall be placed on all other nonexempt resources available to the applicant at the time of grant authorization in accordance with WAC 388-28-400.

(i) If the value of available nonexempt resources is greater than the applicant's needs for the certification period, the applicant shall be ineligible.

(ii) If the value of available nonexempt resources is less than the applicant's needs for the certification period, the amount of the value shall be deducted from the grant. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-35-020, filed 9/15/78.]

**WAC 388-35-030 Certification period.** The normal certification period shall be 15 days and shall not exceed one month.

(1) Assistance for one month may be authorized when it appears that a change in the person's circumstances is not likely to occur during the certification period.

(2) Assistance for less than 15 days may be authorized if an applicant expects to receive income or resources within the normal certification period. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-35-030, filed 9/15/78.]

**WAC 388-35-050 Assistance units—Eligible persons.** Noncontinuing general assistance shall be granted to each person who meets all eligibility conditions. Once GAN eligibility has been determined, the GAN assistance unit shall consist of those eligible persons living together who are legally bound together in a relationship of mutual responsibility and/or dependence. If one or more persons are eliminated from the assistance unit because they cannot or will not comply with eligibility conditions, the eligibility of the remaining members is not affected. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-35-050, filed 9/15/78.]

**WAC 388-35-060 Reapplication.** (1) A person must reapply and have eligibility redetermined prior to the issuance of each grant. Persons shall be recertified only when they have applied for and/or utilized to the full extent available any resources for which they might be eligible including but not limited to:

(a) Employment counseling and referral if they are required to register with WSES as a condition of eligibility;

(b) Benefits, entitlements, compensation;

(c) Failure to pursue and/or utilize such resources without good cause shall result in a period of ineligibility of 30 days or until the person begins to pursue and/or utilize such resources, whichever period is less. The period of ineligibility shall begin the day after the current certification ends.

(d) The following conditions shall constitute good cause:

(i) Mental or physical inability of the person to pursue and/or utilize such resources;

(ii) Inability of the person to get to and from the job, interview, counseling appointment, or application for such resources without undue cost or hardship.

(2) Persons who are required to register with WSES as a condition of eligibility shall be recertified only when it is verified that they have been actively seeking work.

(3) If more than 30 days have elapsed since the end of the last certification period, a person shall be treated as a new applicant. [Statutory Authority: RCW 74.08.090. 79-10-085 (Order 1436), § 388-35-060, filed 9/21/79; 78-10-031 (Order 1337), § 388-35-060, filed 9/15/78.]

**WAC 388-35-070 Noncontinuing general assistance—Requirements.** (1) The standards for monthly requirements for a noncontinuing general assistance applicant/recipient, effective July 1, 1979, shall be:

Number of GA-N recipients in assistance unit

1	2	3	4	5	6	7	8	9
\$ 66	\$105	\$138	\$173	\$213	\$251	\$286	\$323	\$360
10	11	12	13	14	15	16	17	18 or more
\$397	\$436	\$473	\$510	\$549	\$585	\$623	\$659	\$697

(2) An emergency shelter requirement shall be authorized by the CSO in the following circumstances:

(a) The applicant/recipient has been given, and presents to the CSO, a notice to quit premises or pay rent.

(b) The CSO has contacted the landlord and has been assured that payment of up to one month's rent standard will be sufficient to forestall eviction.

(c) The amount authorized shall be the actual amount needed to forestall eviction, not to exceed the following standards:

Number of GA-N recipients in assistance unit

1	2	3	4	5	6	7	8	9
\$ 90	\$131	\$136	\$139	\$139	\$142	\$146	\$149	\$152
10	11	12	13	14	15	16	17	18 or more
\$155	\$157	\$160	\$162	\$165	\$167	\$168	\$173	\$175

(3) An emergency utility requirement shall be authorized by the CSO in the following circumstances:

(a) The applicant/recipient has been given, and presents to the CSO, a notice of impending utility shut-off issued by the company providing the service, or it is otherwise verified by the CSO that the applicant or recipient is without necessary fuel for heating or cooking.

(b) The CSO has contacted the utility company or other provider of fuel to determine the amount necessary to forestall shut-off or otherwise provide necessary fuel.

(c) The amount authorized shall be the actual amount needed to forestall shut-off or to purchase one month's supply of fuel, not to exceed the following standards:

Number of GA-N recipients in assistance unit

1	2	3	4	5	6	7	8	9
\$ 46	\$ 48	\$ 67	\$ 77	\$ 83	\$ 88	\$ 95	\$101	\$111
10	11	12	13	14	15	16	17	18 or more
\$120	\$130	\$140	\$151	\$162	\$172	\$183	\$193	\$204

[Statutory Authority: RCW 74.08.090. 79-10-085 (Order 1436), § 388-35-070, filed 9/21/79; 78-10-031 (Order 1337), § 388-35-070, filed 9/15/78.]

**Chapter 388-37 WAC**

**GENERAL ASSISTANCE--ELIGIBILITY--STANDARDS OF ASSISTANCE--PAYMENT**

**WAC**

388-37-010	Continuing general assistance—Exclusions.
388-37-020	Continuing general assistance—Eligibility conditions—General.
388-37-030	Continuing general assistance—Eligible persons.
388-37-040	Continuing general assistance—Standards for requirements—Authorization.

388-37-210	Repealed.
388-37-215	Repealed.
388-37-220	Repealed.
388-37-230	Repealed.
388-37-235	Repealed.
388-37-240	Repealed.
388-37-245	Repealed.
388-37-250	Repealed.
388-37-255	Repealed.
388-37-260	Repealed.
388-37-265	Repealed.
388-37-270	Repealed.

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

388-37-210 Noncontinuing general assistance—Eligible persons. [\*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.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

\*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 as filed on 1/15/76 by Order 1085 was outstanding prior to Order 1126. See repealed citation above.

388-37-215 Noncontinuing general assistance—Specific eligibility conditions. [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.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

388-37-220 Noncontinuing general assistance—Requirements. [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.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

388-37-230 Noncontinuing general assistance—Exempt and non-exempt resources and income. [Statutory Authority: RCW 74.08.090. 78-06-022 (Order 1294), § 388-37-230, filed 5/16/78; Order 841, § 388-37-230, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

388-37-235 Noncontinuing general assistance—Computing income. [Order 841, § 388-37-235, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

388-37-240 Noncontinuing general assistance—Utilization of resources and income. [Order 841, § 388-37-240, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

388-37-245 Noncontinuing general assistance—Effective date of eligibility. [Order 841, § 388-37-245, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

388-37-250 Noncontinuing general assistance—Grant period. [Order 841, § 388-37-250, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

388-37-255 Noncontinuing general assistance—Authorization and reauthorization of grant. [Order 841, § 388-37-255, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

388-37-260 Noncontinuing general assistance—Notification to recipient. [Order 841, § 388-37-260, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

- 388-37-265 Noncontinuing general assistance—Payment of grant. [Order 841, § 388-37-265, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
- 388-37-270 Noncontinuing general assistance—Vendor payment. [Order 841, § 388-37-270, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

**WAC 388-37-010 Continuing general assistance—Exclusions.** (1) Continuing 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 and whose need is expected to continue for more than a 30-day period.

(2) Continuing general assistance cannot be granted to a person eligible for or receiving AFDC or to a person eligible for or whose needs are being met by supplemental security income with the following exceptions:

(a) An applicant who appears to be eligible for SSI may receive continuing 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.

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.

(c) An AFDC parent in need of intensive treatment (thirty days or less) in an approved alcoholic treatment facility may be granted continuing general assistance for the cost of treatment. This payment is made through the vendor billing procedure.

(3) Continuing 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. [Statutory Authority: RCW 74.08.090. 79-06-026 (Order 1397), § 388-37-010, filed 5/16/79; 78-10-031 (Order 1337), § 388-37-010, filed 9/15/78; 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 Continuing 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

(2) An applicant or recipient shall not have transferred property contrary to law or rules as specified in WAC 388-28-458 through 388-28-465.

(3) If an individual is living in an institution, WAC 388-34-010 through 388-34-020 also apply in eligibility determination.

(4) 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. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-37-020, filed 9/15/78; Order 1251, § 388-37-020, filed 11/10/77; Order 841, § 388-37-020, filed 8/9/73.]

**Reviser's Note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**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 requirement and one parent/stepparent is regularly attending a vocational training course approved by the ESSO in accordance with WAC 388-57-028.

(a) Disapproval of a training plan shall make the family ineligible for GAU.

(b) The ESSO shall approve no more than 24 continuous months of training per family.

(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. [Statutory Authority: RCW 74.08.090. 78-06-021 (Order 1295), § 388-37-030, filed 5/16/78; 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 388-37-040 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 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.

(a) If assistance is terminated because the redetermination of incapacity is delayed for reasons beyond the recipient's control, and continuing incapacity is subsequently redetermined within thirty days, assistance shall be authorized effective the day following the date of termination.

(b) If the recipient is responsible for the delay in redetermining incapacity, continuing assistance shall be authorized effective the date incapacity is redetermined. [Statutory Authority: RCW 74.08.090, 79-06-028 (Order 1398), § 388-37-040, filed 5/16/79; Order 1102, § 388-37-040, filed 3/2/76; Order 841, § 388-37-040, filed 8/9/73.]

**WAC 388-37-210 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-215 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-220 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-230 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-235 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-240 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-245 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-250 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-255 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-260 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-265 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-37-270 Repealed.** See Disposition Table at beginning of this chapter.

## Chapter 388-42 WAC FUNERAL EXPENSE

### WAC

388-42-020	Funeral expenses--Definitions and standards.
388-42-030	Funeral expenses--Eligibility standards.
388-42-070	Funeral expenses--Social Security death benefit.
388-42-090	Funeral expenses--Life insurance.
388-42-150	Maximum cost standards for funeral director's services and burial or cremation services.

**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.

(2) Two types of funeral services shall be available: A regular service and a minimum service.

(a) The minimum service shall include:

(i) Transportation of the body from place of death to mortuary;

(ii) Proper preparation and care of the remains of the deceased person for immediate disposition by cremation or burial;

(iii) Preparation and filing of death certificate and permits;

(iv) A wooden container of sufficient durability to transport the remains from the mortuary to the crematorium or cemetery;

(v) Transportation of the remains from the mortuary to the crematorium or cemetery;

(vi) Use of the funeral director's staff and facilities when requested for a memorial service;

(vii) The cost for these services shall not exceed the standard in WAC 388-42-150(1)(a).

(b) The regular service shall include all the services of the minimum service plus:

(i) Service car (first call);

(ii) Embalming and care of the body;

(iii) Casket of octagon shape cut panel board top, or square with raised top, covered with crepe or flannel cloth, trimmed with full art lining and six bail handles;

(iv) Use of reposing rooms, chapel, casket coach, one car for family and personal services;

(v) The cost of these services shall not exceed the standard in WAC 388-42-150(1)(b).

(3) Payment for the regular service shall be authorized only upon request by someone who wishes the deceased to have a regular funeral service and who plans to attend the service. Otherwise, only the minimum service shall be authorized.

(4) Disposition of the body shall be by cremation or burial.

(a) Burial services shall include:

- (i) Burial plot if not previously provided;
- (ii) Minimum grave marker;
- (iii) Liner and endowed care if either or both are required;
- (iv) Cost of the lot purchased within thirty days prior to burial shall be included in cemetery costs;
- (v) Opening and closing grave;
- (vi) Items available under a prepaid plan shall be utilized for the purpose intended. The original cost or current market value of the prepaid items or service need not be computed;
- (vii) The cost of burial services shall not exceed the standard in WAC 388-42-150(2)(a).

(b) Cremation services shall include:

- (i) Cremation;
- (ii) An urn of metal or other substantial material;
- (iii) Marker;
- (iv) Space for disposition of the remains either in a mausoleum or cemetery;
- (v) Disposition of cremated remains;
- (vi) Costs for cremation services shall not exceed the standard in WAC 388-42-150(2)(b).

(5) 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 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 standard. [Statutory Authority: RCW 74.08.090. 78-10-058 (Order 1340), § 388-42-020, filed 9/22/78; 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 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 shall be paid only when authorized in writing on form 14PA20 by the ESSO prior to the funeral services and burial or cremation unless for religious reasons the body must be disposed of immediately and it is not possible to apply before the funeral. In such case, application must be made on the first working day after the funeral.

(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. [Statutory Authority: RCW 74.08.090. 78-10-058 (Order 1340), § 388-42-030, filed 9/22/78; 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 8/7/69; 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 388-42-070 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 two hundred fifty-five dollars.

(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 nonexempt 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 388-28-482 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. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-42-070, filed 9/18/78; 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 388-42-090 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 388-28-482 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. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-42-090, filed 9/18/78; Order 538, § 388-42-090, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-090, filed 8/7/69; Order 242, § 388-42-090, filed 10/20/67; Regulation 15.35, filed 1/24/64.]

**WAC 388-42-150 Maximum cost standards for funeral director's services and burial or cremation services.**

(1) Funeral director's services—Actual charges, but not to exceed

- (a) Minimum service
  - Adult or older child (casket 5 feet or larger) . . . . . \$217
  - Child (casket 2 feet 6 inches, less than 5 feet) . . . . . \$169
  - Child (casket less than 2 feet 6 inches) . . . . . \$ 81
- (b) Regular service
  - Adult or older child (casket 5 feet or larger) . . . . . \$496
  - Child (casket 2 feet 6 inches, less than 5 feet) . . . . . \$209
  - Child (casket less than 2 feet 6 inches) . . . . . \$ 81

- (2) Burial or cremation services
  - (a) Burial only . . . . . \$223
    - Burial in grave of another . . . . . \$223
    - Burial with lot included . . . . . \$251
  - (b) Cremation only . . . . . \$223
    - Cremation with burial place included . . . . . \$230

(3) These standards include all applicable taxes.

(4) These standards shall be effective July 1, 1979. [Statutory Authority: RCW 74.08.090. 79-10-083 (Order 1434), § 388-42-150, filed 9/21/79; 78-10-058 (Order 1340), § 388-42-150, filed 9/22/78; 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  
388-44-127 Repayment of overpayment resulting from department error.

**WAC 388-44-127 Repayment of overpayment resulting from department error.** (1) Overpayments resulting from department error 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 unless relief from liability is granted pursuant to this section.

(2) When an overpayment is discovered, and before it is established as an account receivable, the ESSO shall determine:

- (a) Whether the overpayment resulted from error on the part of the department and;
- (b) Whether there was any fault on the part of the recipient in obtaining or retaining the overpayment. "Fault," as used in this section, means either fraud or nonwillful error.

(3) When an overpayment results from error on the part of the department and no fault on part of the recipient in obtaining or retaining the assistance, the ESSO administrator or his immediate designee shall determine whether or not recovery of the overpayment would be inequitable. Recovery shall be inequitable only in the following circumstances:

(a) The recipient was in financial need at the time the overpayment occurred, and;



(b) The recipient did not receive assistance in excess of financial need as computed according to department standards, and;

(c) The overpayment was due to an eligibility factor unrelated to financial need. (See WAC 388-44-035 and 388-44-040.)

(4) If recovery would be inequitable, the recipient shall not be liable for repayment; the overpayment shall not be a debt due the state, and the recipient shall be so informed.

(5) Department decisions made pursuant to this section shall be subject to fair hearing review.

(6) "Recipient," as used in this section, also means "former recipient." [Statutory Authority: RCW 74.08.090. 78-06-082 (Order 1298), § 388-44-127, filed 6/1/78; 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.]

#### Chapter 388-48 WAC SAFEGUARDING INFORMATION

WAC

388-48-020 Information not confidential.

**WAC 388-48-020 Information not confidential.** (1) 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.

(2) General information concerning coverage, conditions of eligibility, scope, related services available, and the rights and responsibilities of applicants for and recipients of public assistance programs must be made available to all persons, whether they are actual or potential applicants or merely persons seeking information. [Statutory Authority: RCW 74.08.090. 78-08-047 (Order 1319), § 388-48-020, filed 7/19/78; Order 541, § 388-48-020, filed 3/31/71, effective 5/1/71; Regulation 18.11, filed 1/24/64.]

#### Chapter 388-52 WAC SERVICES INVOLVING OTHER AGENCIES

WAC

388-52-166 Comprehensive employment and training program—Participation of recipient.

**WAC 388-52-166 Comprehensive employment and training program—Participation of recipient.** (1) If the an AFDC participant is certified and 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. [Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-52-166, filed 2/15/79; Order 975, § 388-52-166, filed 10/11/74.]

#### Chapter 388-53A WAC TEMPORARY HOUSING PROGRAM--LIMITED TO GOVERNOR'S REQUEST FOR FEDERAL ASSISTANCE

WAC

388-53A-010	Purpose.
388-53A-020	Definitions.
388-53A-030	Authorization of program.
388-53A-040	Administrative procedures.
388-53A-050	Program eligibility.
388-53A-060	Program eligibility review.
388-53A-070	Criteria for continued eligibility.
388-53A-080	Termination of temporary housing.
388-53A-090	Allocation of funds.
388-53A-100	Organization and functions.
388-53A-110	Eligibility determinations.
388-53A-120	Notification of approval or disapproval.
388-53A-130	Reconsideration process.
388-53A-140	State appeal.

**WAC 388-53A-010 Purpose.** The purpose of this plan is to set forth the administrative procedures and describe the organization for implementing the temporary housing program. This program may be requested by the governor after the president declares an emergency or major disaster in the state of Washington. 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 temporary housing program in Washington. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-010, filed 6/1/79.]

**WAC 388-53A-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 38.52 RCW.

(4) "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.

(5) "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.

(6) "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.

(7) "Individual" means a person who is not a member of a family as defined in subsection (6) of this section.

(8) "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.

(9) "Federal coordinating officer" (FCO) means the person appointed by the administrator, FDAA, to coordinate federal assistance in a major disaster.

(10) "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. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-020, filed 6/1/79.]

**WAC 388-53A-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 404 of Public Law 93-288 provides for temporary housing to individuals and families who, as a result of a presidentially declared emergency or major disaster are without adequate housing. Chapter 38.52 RCW places responsibility for determining eligibility standards for disaster relief programs administered by the state with the department of social and health services. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-030, filed 6/1/79.]

**WAC 388-53A-040 Administrative procedures.** The state coordinating officer (SCO) will be the governor's authorized representative for the implementation of the temporary housing program. 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.

(1) Public Law 93-288, Section 404, provides for temporary housing to individuals and families who have become homeless and require temporary housing as a result of an emergency or major disaster.

(2) Upon a declaration of an emergency or major disaster by the president, the governor may request temporary housing assistance from the Federal Disaster Assistance Administration (FDAA).

(3) The department of emergency services shall be responsible for preparing the governor's request in accordance with 24 CFR 2205.45.

(4) When agreed to by the governor and regional director of the FDAA, the state shall administer the temporary housing program. The state coordinating officer, department of emergency services, and the bureau of income maintenance, department of social and health services, shall coordinate the necessary actions to place in operation the provisions and administrative policies and procedures for the temporary housing program.

(5) The department of emergency services, acting as the designated responsible state coordinating agency, will arrange for the procurement and make habitable,

temporary housing provided by the federal government in conformity with the state/federal agreement and Public Law 93-288.

(6) Chapter 38.52 RCW makes the department of social and health services responsible for establishing eligibility standards for applicants for assistance under the state-administered temporary housing program.

(7) The program will be administered in conformity with provisions of Sections 2205.13, 2205.15, 2205.18 and 2205.45 of the Federal Disaster Assistance Regulations.

(8) Eligibility criteria will conform to Section 2205.45 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, and in accordance with chapter 38.52 RCW. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-040, filed 6/1/79.]

**WAC 388-53A-050 Program eligibility.** (1) In order to qualify for temporary housing under this section, an individual or family representative must certify to one of the following:

(a) Their dwelling has been destroyed as a result of a disaster.

(b) Their dwelling has been damaged or utility service has been interrupted to such an extent as to constitute a health or safety hazard which did not exist prior to the disaster.

(c) Their dwelling has been made inaccessible due to the disruption or destruction of transportation routes or facilities, or due to other impediments to access.

(d) Their dwelling has been made inaccessible by restrictions on travel or movement imposed or recommended by a responsible official.

(e) Their dwelling is no longer available due to eviction or dispossession of the applicant by the owner because of the owner's personal need for that dwelling as a result of a disaster.

(f) They have been evicted from their dwelling by the owner or mortgage holder because of their financial hardship which is a direct result of the disaster; or

(g) Other circumstances resulting from a disaster prevent an individual or family from occupying a dwelling which they occupied immediately prior to the disaster.

(2) Income and resources of applicants for temporary housing shall be exempted from consideration in determining eligibility for a temporary period not to exceed one year or such time as is necessary to restore them to independence as provided by RCW 74.04.005(11)(g) and 74.04.265. An applicant/recipient shall be considered restored to independence when he/she no longer meets the requirements for continued eligibility as specified in WAC 388-53A-060.

(3) Eligible categories. Assistance may be made available to meet temporary housing needs by providing goods and services for the following:

(a) Mobile homes;

(b) Pad rental;

(c) All utilities and connections;

(d) Blocking, winterization and other installations necessary to ensure compliance with applicable state and local codes;

(e) Maintenance on mobile home agreed to by eligible occupant and owner;

(f) Required state inspections of accommodations.

(4) Ineligible categories. Temporary housing assistance will not be made available under the following conditions:

(a) When insurance coverage provides for the full cost of alternate living arrangements and where such alternate living arrangements are readily available;

(b) When the dwelling from which the applicant/recipient was displaced was used as a vacation or recreational residence. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-050, filed 6/1/79.]

**WAC 388-53A-060 Program eligibility review.** (1) A periodic eligibility review for continued occupancy in temporary housing shall be made no less frequently than every ninety days.

(2) Continued occupancy shall be determined on the basis of need as specified in WAC 388-53A-070.

(3) Each occupant shall be notified of his/her eligibility or ineligibility. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-060, filed 6/1/79.]

**WAC 388-53A-070 Criteria for continued eligibility.** (1) A temporary housing occupant shall endeavor to place himself/herself in alternate housing at the earliest possible time.

(2) A temporary housing occupant shall be eligible for continued assistance when:

(a) Alternate housing is not available to the occupant. Alternate housing is deemed available when it:

(i) Is sufficient in size to accommodate the family;

(ii) Is free of health and safety hazards;

(iii) Is located such that the occupants may commute to their place(s) of employment, schools, and other centers of family activity within usual and customary commutation time periods effective in the area;

(iv) Is within the financial means of the occupant, based on twenty-five percent of adjusted household income. Occupants who qualify for available low-income or other governmental rent subsidies shall be considered able to assume financial responsibility for similar alternate housing. Housing costs shall include utilities costs, and adjusted household income shall be computed using the total gross income of household members (excluding the earnings of persons under eighteen, except where such persons are head of the household or a spouse), with the following exceptions:

(A) Twenty-five dollars per month for each person under eighteen or full-time student over eighteen except when such an individual is a head of household;

(B) Twenty-five dollars per month for each elderly (over sixty-two, or handicapped adult, except where they are head of the household; and

(C) Expenses resulting from unusual financial demands upon a household, as approved by the CSO administrator or his/her designee.

(v) Does not impose an undue burden upon the occupant in his/her plans to secure permanent housing.

(b) The occupant is in compliance with the terms of the rental contract/agreement including:

(i) Prompt payment of utility, rent, and other appropriate charges;

(ii) Reimbursement to the government where all or a portion of the temporary housing assistance represents a duplication of benefits or for other charges as authorized by the CSO administrator or his/her designee;

(iii) Maintenance of the temporary housing unit in a manner normally expected of a tenant; and

(iv) Utilization of the unit for purposes of a family dwelling, solely for the occupant's household. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-070, filed 6/1/79.]

**WAC 388-53A-080 Termination of temporary housing.** (1) Temporary housing assistance may be terminated on a thirty-day written notice.

(2) Temporary housing assistance may be terminated for reasons including, but not limited to the following:

(a) A determination has been made through the recertification process that alternate housing is available to the occupant.

(b) Failure on the part of the occupant to utilize or maintain the temporary housing provided in the manner normally expected of a tenant. Normal wear and tear excepted, the occupant shall be liable for all damages to the property.

(c) Determination that the temporary housing assistance was obtained either through misrepresentation or fraud.

(3) No mobile home rent shall be charged during the first twelve months of occupancy. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-080, filed 6/1/79.]

**WAC 388-53A-090 Allocation of funds.** The amount and type of the federal share of temporary housing assistance shall be in accordance with the federal/state disaster relief agreement.

(1) The federal share of temporary housing may be made by financial assistance or contributions in-kind, depending on the request of the governor.

(2) The federal government may make available mobile homes or other readily fabricated dwellings to the state on the condition that the state or local government provide sites complete with utilities.

(3) The state may make available funds to provide for mobile home or other dwelling site preparation, utilities, rental, maintenance, or other item necessary to ensure habitability. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-090, filed 6/1/79.]

**WAC 388-53A-100 Organization and functions.** All state agencies charged with responsibilities under this chapter will ensure compliance with Section 2205.13,

Non-Discrimination in Disaster Assistance, and Section 2205.15, Duplication of Benefits, of the FDAA regulations.

(1) When deemed necessary, the secretary of the department of social and health services shall publicize the availability of the temporary housing program to potential applicants.

(a) Notifying local governments, welfare related agencies, and civic and church groups; and

(b) Establishing outreach programs.

(2) The secretary of social and health services will be responsible for interviewing applicants, receiving applications, and establishing case files. Applications for temporary housing shall be taken for sixty days following a presidentially declared emergency or major disaster. The interviewer will fully explain the scope and purpose of this program to each applicant.

(3) The secretary of social and health services will be responsible for verification of the need for temporary housing for which assistance has been requested. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-100, filed 6/1/79.]

**WAC 388-53A-110 Eligibility determinations.** (1) All determinations shall be made in accordance with the eligibility criteria in WAC 388-53A-060 and 388-53A-070.

(2) Eligibility for the temporary housing program shall be determined by an authorized DSHS employee in accordance with criteria set forth in this chapter. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-110, filed 6/1/79.]

**WAC 388-53A-120 Notification of approval or disapproval.** The department of social and health services will notify every application by letter of the eligibility determination made on the application.

(1) In the case of approval, the letter will state that the application has been approved, and the purpose for which the temporary housing assistance has been made.

(2) In the case of disapproval, the letter will state that the application has been disapproved and the reasons for disapproval.

(3) In both cases, the letter will inform the applicant of the right to request reconsideration within fifteen days from the date the letter was sent. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-120, filed 6/1/79.]

**WAC 388-53A-130 Reconsideration process.** (1) Each applicant will be provided an opportunity to have a temporary housing assistance determination reviewed and reconsidered by the state upon submission of additional information.

(2) The state reconsideration panel will reconsider an applicant's temporary housing assistance determination and within fifteen calendar days of receipt of the reconsideration request render a decision either approving or denying it.

(3) Each applicant will be notified by letter of the result of his request for reconsideration. The determination

letter must be dated and sent to the applicant one day after the reconsideration decision. The letter must inform the applicant of the right to appeal within twenty days from the date the letter was sent. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-130, filed 6/1/79.]

**WAC 388-53A-140 State appeal.** Should an applicant not agree with the state reconsideration panel determination of the reconsideration request, an appeal must be filed within twenty days.

The department of social and health services will conduct an appeal hearing and render a decision either approving or denying within fifteen calendar days of receipt by the department of social and health services. Each applicant will be notified by letter of the result of his appeal. The appeal decision letter must be dated and sent to the appellant one day after the appeal decision was made. [Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-140, filed 6/1/79.]

#### Chapter 388-54 WAC FOOD ASSISTANCE PROGRAMS

##### WAC

388-54-405	Repealed.
388-54-410	Repealed.
388-54-415	Repealed.
388-54-420	Repealed.
388-54-425	Repealed.
388-54-430	Repealed.
388-54-432	Repealed.
388-54-435	Repealed.
388-54-440	Repealed.
388-54-442	Repealed.
388-54-445	Repealed.
388-54-448	Repealed.
388-54-452	Repealed.
388-54-455	Repealed.
388-54-460	Repealed.
388-54-462	Repealed.
388-54-465	Repealed.
388-54-470	Repealed.
388-54-475	Repealed.
388-54-480	Repealed.
388-54-485	Repealed.
388-54-490	Repealed.
388-54-495	Repealed.
388-54-500	Repealed.
388-54-505	Repealed.
388-54-507	Preliminary certification.
388-54-509	Special certification for migrant farm laborers.
388-54-510	Repealed.
388-54-515	Repealed.
388-54-520	Repealed.
388-54-525	Repealed.
388-54-526	Repealed.
388-54-527	Repealed.
388-54-528	Repealed.
388-54-530	Repealed.
388-54-535	Repealed.
388-54-540	Repealed.
388-54-545	Repealed.
388-54-550	Repealed.
388-54-555	Repealed.
388-54-560	Repealed.
388-54-565	Repealed.
388-54-570	Repealed.
388-54-575	Repealed.

- 388-54-580 Repealed.  
 388-54-585 Repealed.  
 388-54-590 Repealed.  
 388-54-595 Repealed.  
 388-54-598 Repealed.  
 388-54-600 Purpose of program.  
 388-54-605 General food stamp provisions.  
 388-54-610 Application and participation—Initiating the application.  
 388-54-620 Application and participation—Interview.  
 388-54-625 Application and participation—Time limits.  
 388-54-630 Application and participation—Verification.  
 388-54-635 Application and participation—Authorized representative.  
 388-54-640 Application and participation—Opportunity to participate.  
 388-54-645 Application and participation—Expedited service.  
 388-54-650 Application and participation—Participation of public assistance households.  
 388-54-655 Application and participation—Destitute households.  
 388-54-660 Application and participation—Special circumstances for participation.  
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 388-54-670 Household determination—Student tax dependents.  
 388-54-675 Work registration requirement.  
 388-54-677 Work registration—Voluntary quit.  
 388-54-680 Citizenship.  
 388-54-685 Residency.  
 388-54-690 Resources—Allowable maximums.  
 388-54-695 Resources—Exempt.  
 388-54-700 Repealed.  
 388-54-705 Repealed.  
 388-54-710 Repealed.  
 388-54-715 Resources—Nonexempt.  
 388-54-717 Resources—Vehicles.  
 388-54-720 Resources—Transfer of property.  
 388-54-725 Income—Definitions.  
 388-54-730 Income—Allowable maximums.  
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 388-54-740 Income—Deductions.  
 388-54-745 Income—Computations.  
 388-54-750 Income—Self-employment.  
 388-54-755 Income—Boarders.  
 388-54-760 Certification periods—Duration.  
 388-54-765 Certification periods—Notices to households.  
 388-54-770 Certification periods—Reporting changes during.  
 388-54-775 Certification periods—Effecting changes during.  
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 388-54-795 Issuance—Identification cards.  
 388-54-800 Issuance—Replacement allotments.  
 388-54-805 Issuance—Restoration of lost benefits.  
 388-54-810 Issuance—Sixty day continuation of benefits.  
 388-54-815 Fair hearings.  
 388-54-820 Fair hearings—Continuation of benefits pending.  
 388-54-825 Repealed.  
 388-54-826 Fraud disqualification—Administrative fraud hearing determined.  
 388-54-827 Fraud administrative hearing—Decision rendering process.  
 388-54-828 Fraud disqualification—Court imposed.  
 388-54-830 Treatment of income and resources of disqualified members.  
 388-54-835 Claims against households—Nonfraud.  
 388-54-840 Claims against households—Fraud.
- 388-54-410 Application—Assistance household. [Order 931, § 388-54-410, filed 4/25/74; Order 660, § 388-54-410, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-415 Nonassistance household. [Order 660, § 388-54-415, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-420 Authorized representative. [Order 992, § 388-54-420, filed 12/31/74; Order 660, § 388-54-420, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-425 Eligibility standards—General. [Order 931, § 388-54-425, filed 4/25/74; Order 660, § 388-54-425, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-430 Eligibility standards—Residence. [Order 992, § 388-54-430, filed 12/31/74; Order 660, § 388-54-430, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-432 Eligibility standards—Boarding house—Institution. [Order 992, § 388-54-432, filed 12/31/74; Order 660, § 388-54-432, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-435 Eligibility standards—Cooking facilities. [Order 992, § 388-54-435, filed 12/31/74; Order 660, § 388-54-435, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-440 Eligibility standards—Household determination. [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.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-442 Student tax dependents. [Order 1030, § 388-54-442, filed 6/12/75.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-445 Eligibility standards—Delivered meals. [Order 660, § 388-54-445, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-448 Eligibility standards—Communal dining. [Order 992, § 388-54-448, filed 12/31/74.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-452 Eligibility standards—Drug-alcohol treatment programs. [Order 992, § 388-54-452, filed 12/31/74.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-455 Eligibility standards—Work registration requirement. [Order 992, § 388-54-455, filed 12/31/74; Order 660, § 388-54-455, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-460 Nonassistance household—Resources—Standards—Exemptions. [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.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.  
 388-54-462 Earned income tax credit disregarded. [Order 1175, § 388-54-462, filed 12/8/76; Order 1121, § 388-54-462, filed 5/26/76.] Repealed by 79-03-033 (Order

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

- 388-54-405 Food stamp program—General provisions. [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.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.

- 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-465 Nonassistance household—Nonrecurring lump-sum payments [Order 992, § 388-54-465, filed 12/31/74; Order 660, § 388-54-465, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-470 Monthly net income. [Statutory Authority: RCW 74.04.510. 78-10-056 (Order 1342), § 388-54-470, filed 9/22/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-470, filed 6/2/78; 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.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-475 Definitions of income. [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.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-480 Income exclusions. [Statutory Authority: RCW 74.04.510. 78-10-056 (Order 1342), § 388-54-480, filed 9/22/78; 78-02-050 (Order 1266), § 388-54-480, filed 1/19/78; 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.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-485 Income deductions. [Statutory Authority: RCW 74.04.510. 79-01-068 (Order 1363), § 388-54-485, filed 12/29/78; 78-10-056 (Order 1342), § 388-54-485, filed 9/22/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-485, filed 6/2/78; 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.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-490 Income computation. [Order 660, § 388-54-490, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-495 Self-employment income. [Order 992, § 388-54-495, filed 12/31/74; Order 660, § 388-54-495, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-500 Farm employment income. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-500, filed 11/6/78; Order 660, § 388-54-500, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-505 Nonassistance household—Verification of eligibility. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-505, filed 11/6/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-505, filed 6/2/78; Order 1030, § 388-54-505, filed 12/31/74; Order 660, § 388-54-505, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-510 Certification. [Statutory Authority: RCW 74.04.510. 79-01-085 (Order 1364), § 388-54-510, filed 1/3/79; Order 992, § 388-54-510, filed 12/31/74; Order 660, § 388-54-510, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-515 Certification—Changes during certification period—Reporting. [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.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-520 Certification—Effecting changes during certification period. [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.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-525 Advance notice—Expiration or adverse action. [Statutory Authority: RCW 74.04.510. 78-11-046 (Order 1352), § 388-54-525, filed 10/20/78; Order 992, § 388-54-525, filed 12/31/74; Order 660, § 388-54-525, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-526 Conference procedure. [Order 869, § 388-54-526, filed 11/1/73.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-527 Participation during appeals. [Order 992, § 388-54-527, filed 12/31/74; Order 869, § 388-54-527, filed 11/1/73.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-528 Adjustments after hearing decision. [Order 924, § 388-54-528, filed 4/15/74; Order 869, § 388-54-528, filed 11/1/73.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-530 Recertification. [Order 660, § 388-54-530, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-535 Transfer of certification and lost benefits. [Statutory Authority: RCW 74.04.510. 78-05-064 (Order 1291), § 388-54-535, filed 4/27/78; Order 660, § 388-54-535, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-540 Basis of coupon issuance. [Statutory Authority: RCW 74.04.510. 78-10-056 (Order 1342), § 388-54-540, filed 9/22/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-540, filed 6/2/78; 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.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-545 Identification card. [Order 660, § 388-54-545, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-550 Authorization to purchase. [Order 660, § 388-54-550, filed 2/23/72, effective 4/1/72.] Repealed by



- 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-555 Food coupon issuance and sales—Variable purchase. [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.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-560 Food coupon use or redemption. [Order 992, § 388-54-560, filed 12/31/74; Order 660, § 388-54-560, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-565 Ineligible receipt of food coupons. [Order 925, § 388-54-565, filed 4/15/74; Order 660, § 388-54-565, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-570 Ineligible receipt of food coupons—Liability for repayment. [Order 1021, § 388-54-570, filed 4/29/75; Order 660, § 388-54-570, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-575 Ineligible receipt of food coupons—Collection of claim. [Order 869, § 388-54-575, filed 11/1/73; Order 660, § 388-54-575, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-580 Ineligible receipt of food coupons—Claim unpaid—Eligibility for food coupons. [Order 660, § 388-54-580, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-585 Replacement purchase. [Order 660, § 388-54-585, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374) filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-590 Cash refunds. [Order 1136, § 388-54-590, filed 7/29/76; Order 869, § 388-54-590, filed 11/1/73.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-595 Retroactive benefits. [Statutory Authority: RCW 74.04.510. 78-05-064 (Order 1291), § 388-54-595, filed 4/27/78; 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.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-598 Offsetting unpaid claims. [Order 1136, § 388-54-598, filed 7/29/76.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-700 Food distribution program—General provisions and coverage. [Order 665, § 388-54-700, filed 3/23/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-705 Food distribution program—Participation. [Order 665, § 388-54-705, filed 3/23/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-710 Food distribution program—Issuance of commodities. [Order 665, § 388-54-710, filed 3/23/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-825 Fraud disqualification. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-825, filed 3/1/79.] Repealed by 79-10-084 (Order 1435), filed 9/21/79. Statutory Authority: RCW 74.04.510. Later promulgation, see WAC 388-54-826, 388-54-827, and 388-54-828.
- WAC 388-54-405 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-410 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-415 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-420 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-425 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-430 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-432 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-435 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-440 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-442 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-445 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-448 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-452 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-455 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-460 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-462 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-465 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-470 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-475 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-480 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-485 Repealed.** See Disposition Table at beginning of this chapter.
- WAC 388-54-490 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-495 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-500 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-505 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-507 Preliminary certification.** Effective August 15, 1978, when a household reports an income so low as to put it at a zero-purchase level, the following will apply:

(1) The CSO will determine, from the application, the interview and any additional materials the client presents in the interview whether or not eligibility appears to exist. This determination shall be based on careful examination of the information to assure that it is clear and consistent.

(2) If it appears that such eligibility does exist, the CSO will make preliminary certification for thirty-day period, during which verification of eligibility factors shall be made prior to again certifying the household. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-507, filed 11/6/78.]

**WAC 388-54-509 Special certification for migrant farm laborers.** (1) Seasonal migrant farm laborers are individuals who move from one region or locale to another to engage in or seek farm, land or crop cultivation activities which are seasonal.

(2) Effective August 15, 1978, otherwise eligible households consisting of seasonal farm laborers which arrive in project areas for seasonal work with no income shall receive a special certification at the zero-purchase level regardless of the amount of income anticipated to be received within the certification period.

(a) Such households which anticipate the receipt of income with fifteen days of the date of application shall be certified at the zero-purchase level for half a month.

(b) Such households which anticipate receipt of income at a date exceeding fifteen days from date of application shall be certified at the zero-purchase level for a full month.

(3) At the end of this special certification period, eligible households shall be certified based on the amount of income received or anticipated to be received during the ensuing certification period. Nothing in this paragraph shall prohibit an eligible household from being certified for continuing certification if it so desires. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-509, filed 11/6/78.]

**WAC 388-54-510 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-515 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-520 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-525 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-526 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-527 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-528 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-530 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-535 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-540 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-545 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-550 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-555 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-560 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-565 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-570 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-575 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-580 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-585 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-590 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-595 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-598 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-600 Purpose of program.** The food stamp program is designed to promote the general welfare and to safeguard the health and well-being of the nation's population by raising the levels of nutrition among low-income households. [Statutory Authority:

RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-600, filed 3/1/79.]

**WAC 388-54-605 General food stamp 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) Use or disclosure of information obtained from applicant households, exclusively for the program, shall be restricted to persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, or with other Federal or federally aided, means-tested assistance programs, or with general assistance programs that are subject to the joint processing requirements specified in this program.

The material and information contained in the case file shall be made available for inspection during normal working hours if there is a written request by a responsible member of the household, its currently authorized representative, or a person acting in its behalf to review materials contained in its case file. However, the department may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

(4) 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 unless otherwise indicated in this chapter.

(5) 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.

(6) During a presidentially declared disaster or a disaster declared by FNS, the department shall certify affected households in accordance with FNS instructions. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-605, filed 3/1/79.]

**WAC 388-54-610 Application and participation--Initiating the application.** (1) The department shall make application forms readily accessible and provide one to anyone who requests it.

(2) The household must file an application by submitting the form to the Food Stamp office either in person, through an authorized representative or by mail.

(3) Each household has a right to file a food stamp application on forms as determined by the department on the same day it contacts the department.

(a) The department shall mail an application to any household who requests one by telephone. This shall be mailed the same day as the telephone request is received.

(b) When a written request for an application is received by the department, an application shall be mailed the same day the written request is received.

(c) If a household contacts the wrong certification office within a project area, in writing, in person or by telephone, the certification office shall:

(i) Give the household the address and telephone number of the appropriate office.

(ii) Mail the application to the appropriate office on the same day.

(4) An application can be filed as long as it contains the applicant's name and address and is signed by a responsible member of the household or authorized representative. The household shall be informed of this fact and also informed that it does not have to be interviewed before filing the application.

(5) The household may voluntarily withdraw its application at any time prior to determination of eligibility.

(6) If a household refuses to cooperate with the CSO, the application shall be denied at the time of refusal.

(i) The household must be able to cooperate but clearly demonstrate that it will not take action.

(ii) If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-610, filed 3/1/79.]

**WAC 388-54-620 Application and participation--Interview.** (1) All food stamp households including those submitting applications by mail must be personally interviewed prior to certification. The interview may be conducted with either a responsible member of the household or its authorized representative.

(2) All interviews will take place in the certification office except in those cases where an office visit is waived; then a home visit or telephone interview is required. Office visits can be waived:

(a) If the household is unable to appoint an authorized representative and has no adult member able to visit the office because of hardships such as, but not limited to, illness, lack of transportation, prolonged severe weather, work hours, care of a household member or remoteness.

(b) If the household is unable to appoint an authorized representative and has no adult member able to visit the office because of age (65 or over), mental or physical handicap.

(3) A home visit shall be used only if the time of the visit is scheduled in advance with the household. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-620, filed 3/1/79.]

**WAC 388-54-625 Application and participation--Time limits.** The application process must be completed in such manner that the eligible household may participate in the program as soon as possible; however in no case later than 30 days of the date of receipt of the

application by the department. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-625, filed 3/1/79.]

**WAC 388-54-630 Application and participation-- Verification.** (1) Mandatory verifications shall include:

(a) Gross nonexempt income. Where verification is not possible because either the person or organization providing the income has failed to cooperate or is unavailable, the eligibility worker shall determine the amount to be used for certification purposes based on the best available information.

(b) Alien status. The department shall verify the alien status of those household members identified as aliens on the application by the use of INS documents, court orders or other appropriate documentations in possession of the household member. The state agency shall not contact the INS to obtain information about the alien's correct status without the alien's written consent.

(c) Utility expenses. The department shall verify the utility expenses only if the household wishes to claim expenses in excess of the utility standard and the expense would actually result in a deduction:

(i) if the utility expense cannot be verified in the 30 days application period, the standard utility allowance shall be used.

(ii) expenses claimed for an unoccupied home will be the actual expenses incurred.

(2) The following need not be verified unless inconsistent with other information on the application, previous applications, or other documented information known to the department.

(a) Resource information or the exempt status of income.

(b) Nonfinancial information such as household composition, tax dependency, deductible expenses, liquid resources and loans, citizenship.

If it is necessary to verify a loan, a simple statement signed by both parties to the loan shall be sufficient.

(3) The following sources of verification shall be used:

(a) Documentary evidence shall be the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Whenever documentary evidence cannot be obtained, the department shall use alternate sources of verifications such as:

(i) Collateral contacts. A collateral contact is a verbal confirmation of a household's circumstances by a person outside of the household. This contact may be made either in person or over the phone with any individual who can provide an accurate third party verification of the household's statements.

(ii) Home visits. Only if documentary evidence cannot be obtained and the visit is scheduled in advance with the household.

(b) Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination.

(4) The household has primary responsibility for providing documentary evidence to support its income statements and to resolve any questionable information.

If it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner, the department shall offer assistance in obtaining this evidence. Designation of a collateral contact is also the responsibility of the household.

(5) At recertification, a change in income or source of income, or actual utility expenses claimed, in an amount over \$25, shall be verified.

(a) All other changes shall be subject to the same verification procedures as apply at initial certification.

(b) Unchanged information shall not be verified unless questionable. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-630, filed 3/1/79.]

**WAC 388-54-635 Application and participation-- Authorized representative.** (1) An authorized representative is an adult nonhousehold member who has been designated in writing by the head of household, spouse or other responsible member of the family to act on behalf of the household in one or all of the following capacities:

(a) Making application. The authorized representative shall be a person who is sufficiently aware of relevant household circumstances.

(b) Obtaining coupons. The authorized representative for coupon issuance may be the same individual designated to make application for the household or may be another individual.

(c) Emergency situations. The household member named on the Identification Card may also designate an emergency authorized representative at a later date. A separate written designation is needed each time an emergency authorized representative is used.

(d) Using coupons. The authorized representative may use coupons to purchase food for the household's consumption, with the full knowledge and consent of the household, provided the authorized representative has the household's ID card.

(2) An authorized representative shall also mean a designated employee of 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 in making application, obtaining coupons and using coupons.

(3) The following restrictions apply to authorized representatives:

(a) 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 written approval of the CSO administrator following a determination that no one else is available to serve.

(b) A multi-household authorized representative may act on behalf of more than one household when the CSO determines there is a bona fide need.

(c) Individuals disqualified for fraud may not serve as authorized representatives during their disqualification period unless no other adult is available.

(4) In the event employers are designated as authorized representatives or a single authorized representative

has access to a large number of ATPs or coupons, the department should exercise caution to assure that:

(a) The household has freely requested the assistance of the authorized representative;

(b) The household circumstances are correctly represented and the household is receiving the correct amount of benefits;

(c) The authorized representative is properly using the coupons, and

(5) Any suspicion of abuse by an authorized representative shall be reported to FNS. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-635, filed 3/1/79.]

**WAC 388-54-640 Application and participation-- Opportunity to participate.** (1) An eligible household shall be provided an opportunity to participate as soon as possible but not later than 30 days after the application was filed. An application is considered filed the day the department receives an application containing the applicant's name and address, which is signed by either a responsible member of the household or the household's authorized representative.

(2) An opportunity to participate consists of providing households with an Authorization to Purchase (ATP) card or other authorization and having an issuance facility open and available for the household to obtain its allotment.

(3) Households that are found to be ineligible shall be sent a notice of denial as soon as possible but not later than 30 days following the date the application was filed.

(4) If the department does not determine a household's eligibility and provide an opportunity to participate within 30 days of the application, the department shall take the following action:

(a) Determine whether the delay was the fault of the household. A delay shall be considered the fault of the household if:

(i) The household has failed to complete the application form even though the department offered, or attempted to offer assistance in its completion and this assistance is documented;

(ii) One or more members of the household has failed to register for work and the department informed the household of the need to register and gave the household at least 10 days from the date of notification to register these members, and the notice was documented;

(iii) In cases where verification is incomplete, the department provided assistance when required and allowed the household sufficient time to provide the missing verification which is at least 10 days from the date of the department's initial request for the particular verification that was missing, and this 10-day period was documented;

(iv) For households that failed to appear for an interview, the department attempted to reschedule the initial interview within 30 days of the date the application was filed.

(A) If a household failed to appear for the first interview and a subsequent interview is postponed at the

household's request or cannot otherwise be rescheduled until after the 20th day but before the 30th day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the 30th day.

(B) If the household failed to appear for the first interview and a subsequent interview is postponed at the household's request until after the 30th day following the date the application was filed, the delay shall be the fault of the household.

(C) If the household has missed both scheduled interviews and requests another interview, any delay shall be the fault of the household.

(b) If the delay is the fault of the household, the household shall lose its entitlement to benefits for the month of application and a denial notice shall be sent. However, the household shall be given an additional 30 days to take the required action.

(i) After a notice of denial is sent and the household takes the required action within 60 days of the date the application was filed, the department shall reopen the case without requiring a new application.

(c) Determine if the delay is the fault of the department.

(i) Delays that are the fault of the department include, but are not limited to, those cases where the department failed to take the action described in subsection (4) (a) of this section.

(d) If the delay is the fault of the department, the department shall take immediate corrective action. The department shall not deny the application but send a notice of pending action, complete with an explanation to the household of any action it must take to complete the application process.

If the household is given an additional 30 days period to provide verifications that were missing and the household is determined eligible in this second 30-day period, the household shall be entitled to benefits retroactive to the month of application.

(5) In cases of delays beyond 60 days.

(a) If the department is at fault for not completing the application process by the end of the second 30-day period and the case file is otherwise complete, the original application will be processed until completed.

(i) If the department was at fault in the first 30 days period, the household shall receive benefits retroactive to the month of application.

(ii) If the household was at fault in the first 30 days, the household shall receive benefits retroactive only to the month following the month of application.

(b) If the department is at fault for not completing the application process by the end of the second 30-day period, but information is not complete enough to reach an eligibility determination, the case shall be denied and a notice sent.

(i) If the department was also at fault for the delay in the initial 30 days, the amount of benefits lost would be calculated from the month of application.

(ii) If the household was at fault for the initial delay, the amount of benefits lost would be calculated from the month following the month of application.

(c) If the household is at fault for not completing the application process by the end of the second 30-day period, the department shall deny the application and require the household to file a new application. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-640, filed 3/1/79.]

**WAC 388-54-645 Application and participation--Expedited service.** The department must screen applicants at the time of application to determine which households are eligible for expedited service.

(1) If otherwise eligible, the following households are entitled to expedited service.

(a) Households with zero net monthly income;

(b) Households who are destitute as defined in WAC 388-54-655.

(2) For households eligible for expedited service.

(a) The department shall mail the ATP card or coupons no later than the close of business of the second working day following the date the application was filed; unless the household opts to pick up the ATP or coupons no later than the start of business of the third working day following the date the application was filed.

(b) For residents of drug or alcoholic treatment and rehabilitation centers who are eligible, the department shall make the ATP and coupons available within seven working days following the date the application was filed.

(3) When expediting certification and issuance the department shall:

(a) Postpone the verification usually required. The household's identity and residency shall be verified however through a collateral contact or readily available documentary evidence.

(b) Benefits shall not be delayed beyond the delivery standard described in (2) above solely because income has not been verified.

(c) The CSO shall promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification.

(4) Households that are certified on an expedited basis and have provided all necessary verification required prior to certification shall be assigned a normal certification period. If verification was postponed the household will be certified for one month only.

(a) Benefits will not be continued past the month of application if verification continues to be postponed.

(b) At the time of reapplication, the household must complete the verification requirements which were postponed.

(c) There is no limit to the number of times a household can be certified under expedited procedures, so long as prior to each expedited certification, the household either completes the verification requirements postponed at the last expedited certification, or was certified under normal processing standards since the last expedited certification.

(5) A household entitled both to expedited service and waiver of office interview shall be interviewed by the first working day following the date the application was filed. If the application is not complete and a telephone

interview is conducted, the department shall complete the application for the household during the interview and mail the completed application the same day to the household for signature. Time limits shall be calculated from the date a completed and signed application is received rather than the date the application was filed. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-645, filed 3/1/79.]

**WAC 388-54-650 Application and participation--Participation of public assistance households.** (1) The department shall conduct a single interview at initial application for both public assistance (PA) and food stamp purposes.

(2) The department shall not delay the household's food stamp benefits pending verification of the PA eligibility provided food stamp eligibility has been established. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-650, filed 3/1/79.]

**WAC 388-54-655 Application and participation--Destitute households.** (1) The following households are considered destitute and eligible for expedited service:

(a) Households whose only income for the month of application was received prior to the date of application and was from a terminated source.

(b) Households whose only income for the month of application is from a new source, if income of more than \$25 from the new source will not be received by the 10th calendar day after the date of application.

(c) Households which receive income both from a terminated source prior to date of application, and from a new source after date of application if:

(i) They receive no other income in the month of application;

(ii) Income of more than \$25 from the new source will not be received by the 10th day after the date of application.

(2) Destitute households shall have their eligibility and level of benefits calculated for the month of application by considering only income which is received between the 1st of the month and the date of application. Any income from a new source that is anticipated after the day of application shall be disregarded.

(3) Travel advances:

(a) Which are reimbursements of travel expenses will not affect the determination that a household is destitute.

(b) Which by written contract are an advance on wages and will subsequently be subtracted from wages earned later:

(i) Shall count as income in the month actually received;

(ii) Shall not affect the determination of whether subsequent payments from the employer are from a new source of income;

(iii) Shall not affect the determination of whether a household shall be considered destitute.

(4) Households whose income must be averaged on an annual basis, or averaged over the period the income is intended to cover, shall have the income averaged and



assigned to the appropriate months of the certification period before a determination of destitution is made.

(5) A household member who changes jobs but continues to work for the same employer shall be considered as still receiving income from the same source.

(a) A migrant farmworker's source of income shall be considered to be the grower for whom the migrant is working at a particular point in time, and not the crew chief.

(b) A migrant who travels with the same crew chief but moves from one grower to another shall be considered to have moved from a terminated income to a new source. [Statutory Authority: RCW 74.04.510. 80-01-056 (Order 1466), § 388-54-655, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-655, filed 3/1/79.]

**WAC 388-54-660 Application and participation—Special circumstances for participation.** (1) Delivered meals. In order to purchase meals from a nonprofit meal delivery service authorized by FNS, eligible household members:

(a) Must be 60 years of age or over, or

(b) Must be housebound, physically handicapped or otherwise disabled to the extent that they are unable to adequately prepare all their meals, or

(c) Be the spouse of such a person.

(2) Communal dining. Members of eligible households who are 60 years of age or older and their spouses, or those receiving SSI and their spouses may use all or any part of their coupons to purchase meals prepared especially for them at a communal dining facility authorized by FNS for that purpose.

(3) Drug-alcohol treatment programs. A member of an eligible household who is a narcotics addict or an alcoholic, who regularly participates in a drug or alcoholic treatment program on a resident 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 nonprofit 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) A resident participant shall be certified only under the following conditions:

(i) He must voluntarily elect to participate in the food stamp program;

(ii) He must be certified through the center as his authorized representative;

(iii) He must be certified as a one-person household.

(c) The drug or alcohol treatment center which acts as the authorized representative must agree to the following conditions:

(i) The center must receive and spend the coupon allotment for meals prepared by or served to the addict or alcoholic;

(ii) The center must notify the department 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;

(iii) The center shall be responsible for and can be penalized or disqualified 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 participants;

(iv) The treatment center shall provide resident addicts or alcoholics with their ID card and any untransacted ATP cards issued for the household when the household leaves the program;

(v) The treatment center shall provide the household with one half of its monthly coupon allotment when the household leaves the program prior to the 16th day of the allotment month;

(vi) The center shall provide the department with a certified list of currently participating residents on a monthly basis. [Statutory Authority: RCW 74.04.510. 80-01-056 (Order 1466), § 388-54-660, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-660, filed 3/1/79.]

**WAC 388-54-665 Household determination.** (1) The following individuals or groups of individuals may make up a household provided that such individuals or groups are not residents of an institution, residents of a commercial boarding house, and provided that separate household status shall not be granted to a spouse of a member of the household, or to children under 18 years of age under parental control of a member of the household.

(a) An individual living alone;

(b) An individual, living with others, but who customarily purchases food and prepares meals for home consumption separate and apart from the others.

(c) An individual who is a boarder, living with others and paying reasonable compensation to the others for meals for home consumption.

(d) A group of individuals, living together, for whom food is customarily purchased in common and for whom meals are prepared together for home consumption.

(e) A group of individuals who are boarders living with others and paying reasonable compensation to the others for meals for home consumption.

(f) Residents of federally subsidized housing for the elderly and residents of Food and Nutrition Service approved drug or alcoholic treatment centers.

(2) The following individuals residing with a household shall not be considered household members in determining eligibility or allotment.

(a) Boomers. Individuals to whom a household furnishes lodging, but not meals, for compensation.

(b) Boarders. Individuals to whom a household furnishes lodging and meals with the following restrictions:

(i) Boarder status shall not be extended to the spouse of a member of the household, children under 18 under parental control of a member of the household, or persons paying less than a reasonable monthly payment for meals. Boarders whose board arrangement is for more than two meals per day shall pay an amount which equals or exceeds the thrifty food plan for the appropriate size of the boarder household. Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds of the

thrifty food plan for the appropriate size of the boarder household.

(c) Live-in Attendants. Individuals who reside with a household to provide medical, housekeeping, child care or other similar personal services.

(d) Ineligible aliens. Individuals who do not meet the citizenship or eligible alien status.

(e) Student tax dependents

(f) Disqualified individuals. Individuals disqualified for fraud or college students disqualified for failure to meet the school year work registration requirement.

(g) Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household.

(3) Nonhousehold members who are otherwise eligible may participate as separate households provided that separate household status not be granted to:

(a) A spouse.

(b) Children under 18 years of age under the parental control of a member of the household.

(4) Residents of commercial boarding houses are not eligible for program benefits. A boarding house shall be defined as:

(a) An establishment which is licensed as a commercial enterprise which offers meals and lodging for compensation.

(b) In project areas without licensing requirements, a boarding house is a commercial establishment which offers meals and lodging for compensation with the intention of making a profit.

(c) The household of the proprietor of a boarding house may participate separate and apart from the residents if otherwise eligible. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-665, filed 3/1/79.]

**WAC 388-54-670 Household determination--Student tax dependents.** (1) No individual who is a member of a household otherwise eligible to participate in the program shall be eligible to participate as a member of that or any other household if the individual is:

(a) Eighteen years of age or older, and

(b) 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) Properly claimed or could be properly claimed as a tax dependent for the current year for federal income tax purposes by a taxpayer member of another household not eligible as specified in subsection (3) of this section to participate in the food stamp program. "Properly claimed tax dependent" means that the taxpayer provides or is treated as having provided more than half of the student's support during the calendar year in which the student makes application.

(2) The eligibility of the taxpayer's household shall be based on information provided by the student or the taxpayer.

(a) The department shall verify the tax dependent status of a student who is subject to the tax dependency rules and who does not know his tax dependent status or who provides questionable information.

(b) The parent's failure to supply requested information or a parental response which indicates student ineligibility shall result in the student being declared ineligible.

(3) If the taxpayer's household is not currently certified for food stamps, its eligibility shall be determined by the household's size and monthly gross income, based on tables provided by FNS.

(a) The allowable gross income limits as computed by FNS are calculated by increasing the current net income eligibility limits by the standard deduction, the maximum shelter deduction and the twenty percent earned income deduction.

(b) Self-employed households shall have their gross income determined on an annual, rather than a monthly basis, minus the cost of doing business, but prior to deducting taxes.

(4) The remainder of the household in which the ineligible student 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. [Statutory Authority: RCW 74.04.510, 79-07-057 (Order 1408), § 388-54-670, filed 6/25/79; 79-03-033 (Order 1374), § 388-54-670, filed 3/1/79.]

**WAC 388-54-675 Work registration requirement.**

(1) Each individual between the ages of 18 and 60 is required to register for employment prior to certification, and once every 6 months after initial registration, except:

(a) A person physically or mentally unfit for employment;

(b) A parent, or other member of the household, who has responsibility for the care of a dependent child under 12 years of age, or of an incapacitated person;

(i) If the child has its 12th birthday within a certification period, the individual responsible for the care of the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the individual qualifies for another exemption.

(c) A parent, or other caretaker, of a child under 18 years of age in a household where another able-bodied parent is registered for work or is exempt as a result of employment;

(d) A person receiving unemployment compensation, or a person who has applied for, but not yet begun to receive unemployment compensation, but has registered for work as a requirement for receiving unemployment compensation.

(e) A household member subject to and participating in the WIN program

(i) Household members, who are required to register for work under WIN or unemployment compensation and fail to comply with the work registration requirements of those programs, shall not be denied food stamp benefits solely for this failure. These members lose their

exemption and must register for work if they qualify in (1) subsection.

(f) A person who is employed, or self-employed, at least 30 hours per week, or receiving weekly earnings equal to the federal minimum wage, multiplied by 30 hours.

(g) A student enrolled at least half time in any recognized school, training program or institution of higher education, except that:

(i) Those enrolled at least half time in an institution of higher education must register for 20 hours of work per week unless they are employed at least 20 hours a week or participating in a federally financed work study program; employed less than 20 hours per week but earning an amount at least equal to the federal minimum wage multiplied by 20 hours; the head of a household containing one or more other persons to whom the student supplies more than half of their total support; or otherwise exempt from the work registration requirement,

(ii) A student shall register for full time work when any school, training program or institution of higher education has a recess or vacation exceeding 30 days.

(h) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.

(i) A child who has its 18th birthday within the certification period. This child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption.

(2) The department shall provide work registration forms to the applicant for each household member who is required to register for employment. Household members are registered when a completed work registration form is submitted to the department. The department shall forward the completed form to the State Employment Service.

(3) The applicant's statement concerning the employability of each member of the household shall be accepted unless the information is questionable.

(4) Each member required to register for employment shall also be required to:

(a) Report for an interview to the 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, if the potential employment is suitable.

(d) Accept a bona fide offer of suitable employment to which he is referred by such office;

(e) Continue suitable employment to which the registrant was referred by such office until the employment is no longer considered suitable, the registrant becomes exempt, or is terminated from employment due to circumstances beyond the registrant's control.

(5) If the department finds that a household member except a student refused or failed to comply with the work registration requirement without good cause, the

household shall be ineligible for participation in the program, until the member complies, becomes exempt, or, for 2 months, whichever is earlier.

(a) Any student who has failed or refuses to comply without good cause shall be ineligible to participate as a member of any household. This disqualification shall apply to the individual student alone and not to the entire household and continues until he complies, becomes exempt, or for 2 months, whichever is earlier.

(b) Student disqualification. The department shall issue a notice of adverse action if benefits are reduced or terminated due to student disqualification. The notice shall contain the information that one of its members is being disqualified, the reason for the disqualification and the eligibility and benefit level of the remaining members.

(6) In determining whether good cause existed for failure to comply, facts and circumstances shall be considered including information submitted by the employment office, the household member and the employer. "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 household member, unavailability of transportation, and unanticipated emergency.

(7) Employment will be considered unsuitable if:

(a) The wages offered are less than the highest amount of the standard following:

(i) The applicable state or federal minimum wage,

(ii) 80% of the federal minimum wage.

(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, or continuing 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, unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (commonly known as the Taft-Hartley Act) or unless an injunction has been issued under Section 10 of the Railway Labor Act.

(8) Employment shall be considered suitable unless the household member can demonstrate, or the department otherwise becomes aware that:

(a) The degree of risk to the registrant's health and safety is unreasonable.

(b) The registrant is not physically or mentally fit to perform the employment offered, as documented by medical evidence or reliable information obtained from other sources.

(c) The employment offered is outside 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 from the member's home to the place of employment is unreasonable considering the expected wages and the time and cost of commuting.

(e) If daily commuting time, not including the transporting of a child to and from a child care facility, exceeds two hours, or if the place of employment is too far to walk to and neither private nor public transportation is available to the client.

(f) The working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs.

(g) In case of students, the employment is offered during class hours or is more than 20 hours a week.

(9) No household shall be denied participation solely on the grounds that a member of the household is not working because of a strike or a lockout at his or her place of employment unless the strike has been enjoined under paragraph 208 of the Labor-Management Relations Act (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under Section 10 of the Railway Labor Act.

(10) At the end of the 2 month disqualification period, a household may apply to re-establish eligibility. Eligibility may be reestablished during the disqualification period if the reason for disqualification is corrected. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-675, filed 3/1/79.]

**WAC 388-54-677 Work registration--Voluntary quit.** No applicant household whose primary wage earner voluntarily quit his/her most recent job without good cause shall be eligible for participation in the program as specified below:

(1) When a household files an application, the department shall determine:

(a) If any currently unemployed household member who is required to register for full time work has quit his/her most recent job without good cause within the last sixty days;

Changes in employment status that result from reducing hours of employment, while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered as a voluntary quit for purpose of this subsection.

(b) If that member is the household's primary wage earner. The primary wage earner shall be that household member age eighteen or over who was acquiring the greatest amount of earned financial support for the household at the time of the quit;

(c) If the voluntary quit was with or without good cause.

(2) If the quit is without good cause the household's application for participation shall be denied for a period of two months beginning with the month of quit:

(a) The household shall be advised of the reason for the denial and of its rights to reapply and/or request a fair hearing;

(b) If an application for participation in the food stamp program is filed in the second month of disqualification, the department shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

(3) The following persons are exempt from voluntary quit provisions:

(a) Primary wage earners in households certified for the program at the time of the quit; and

(b) Persons exempt from the full time work registration provisions.

(4) Good cause for leaving employment includes the good cause provisions found in WAC 388-54-675(5) and resigning from a job that does not meet the suitability criteria specified in WAC 388-54-675(7). Good cause for leaving employment shall also include:

(a) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs;

(b) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(c) Acceptance by the primary wage earner of employment, or enrollment of at least half-time in any recognized school, training program or institution of higher education, that requires the primary wage earner to leave employment;

(d) Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program or institution of higher education in another county or similar political subdivision which requires the household to move thereby requiring the primary wage earner to leave employment;

(e) Resignations by persons under the age of sixty which are recognized by the employer as retirement;

(f) Employment which becomes unsuitable by not meeting the criteria specified in WAC 388-54-675(7) after the acceptance of such employment;

(g) Acceptance of a bona fide offer of employment of more than twenty hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than twenty hours a week or weekly earnings of less than the federal minimum wage multiplied by twenty hours; and

(h) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered as with good cause if part of the pattern of that type of employment.

(5) The department shall request verification of the household's statements only to the extent that the information given by the household is questionable:

(a) The primary responsibility for providing verification rests with the household;

(b) If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the

department shall offer assistance to the household to obtain the needed verification;

(c) Acceptable sources of verification include but are not limited to the previous employer, employee association, union representatives and grievance committees or organizations;

(d) Whenever documentary evidence cannot be obtained, the department shall substitute a collateral contact;

(e) The department is responsible for obtaining verification from acceptable collateral contacts provided by the household;

(f) If the household and department are unable to obtain requested verification from these or other sources because the cause for the quit resulted from circumstances that for good reason cannot be verified, such as a resignation from employment due to discrimination practices or unreasonable demands by an employer, or because the employer cannot be located, the household will not be denied access to the program. [Statutory Authority: RCW 74.04.510. 79-07-056 (Order 1409), § 388-54-677, filed 6/25/79.]

**WAC 388-54-680 Citizenship.** To participate in the food stamp program an applicant shall be any person who is:

(1) A resident of the United States, and either

(a) A United States citizen; or

(b) An alien, as follows:

(i) An alien lawfully admitted for permanent residence as an immigrant pursuant to sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act.

(ii) An alien who entered the United States prior to June 30, 1948, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act.

(iii) An alien who qualified for conditional entry because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by a catastrophic natural calamity pursuant to section 203(a)(7) of the Immigration and Nationality Act.

(iv) An alien lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act.

(v) An alien living within the United States to whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act.

(4) The CSO shall verify lawful permanent resident alien status by use of the appropriate INS documentation. Aliens unable to furnish this identification are ineligible.

(5) The income and resources of an ineligible alien living in a household shall not be considered in determining eligibility or level of benefits of the household.

[Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-680, filed 3/1/79.]

**WAC 388-54-685 Residency.** (1) A household must be living in the project area in which it files an application for participation.

(2) No individual may participate as a member of more than one household, or in more than one project area, in any month.

(3) The department shall not impose any durational residency requirements.

(4) A fixed residence is not required nor shall residency require an intent to reside permanently in the state or project area.

(5) Persons in a project area solely for vacation purposes shall not be considered residents. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-685, filed 3/1/79.]

**WAC 388-54-690 Resources--Allowable maximums.** (1) The maximum allowable resources of all members of the household shall not exceed:

(a) \$3,000 for all households with two or more persons which include at least one member age 60 or over;

(b) \$1,750 for all other households.

(2) The resources of an individual determined to be ineligible due to tax dependency shall not be considered available to other household members, nor shall the individual be counted as a household member in determining the resource eligibility limits.

(3) The resources of an ineligible alien living in a household shall not be considered in determining eligibility or level of benefits of the household. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-690, filed 3/1/79.]

**WAC 388-54-695 Resources--Exempt.** The following resources shall be exempt:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others. This shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, or unhabitability due to casualty or natural disaster, if the household intends to return. Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home, shall receive an exemption for the value of the lot and, if it is partially completed, for the home.

(2) Personal effects (clothing, jewelry, etc.) and household goods (furniture, appliances, etc.), including one burial plot per household member.

(3) Cash value of life insurance policies and pension funds, including Keogh or IRA as long as funds are not withdrawn.

(4) Vehicles as provided for in WAC 388-54-717.

(5) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis, except that rental homes which are used by households for vacation purposes at some time during the year shall be counted as resources unless they are

producing annual income consistent with their market value.

(6) Property, such as farm land and rental homes, or work related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member.

(7) Resources of nonhousehold members such as roomers, boarders, or live-in attendants, ineligible aliens.

(8) Indian lands held jointly with the tribe or land that can be sold only with the approval of the Bureau of Indian Affairs.

(9) Resources which have been prorated as income for self-employed persons or students.

(10) The cash value of resources not accessible to the household, such as but not limited to, irrevocable trust funds, property in probate, property and notes receivable which cannot be readily liquidated, if the household is making a good faith effort to sell:

(a) Any funds in a trust or transferred to a trust, and the income produced by that trust, shall be considered inaccessible to the household if the trust is under the control and management of an institution, corporation or organization (the trustee) which is not under the direction or ownership of any household member;

(b) If that trustee uses the funds solely to make investments on behalf of the trust or to pay the educational expenses of any person named by the household creating the trust;

(c) If the trust investments do not directly involve or assist any business or corporation under the control, direction or influence of a household member;

(d) If the trust arrangement will not likely cease during the certification period; and

(e) If no household member has the power to revoke the trust arrangement or change the name of the student beneficiary during the certification period.

(11) Resources which are excluded for food stamp purposes by express provision of federal law:

(a) Payments received under the Alaska Native Claims Settlement Act or the Sac and Fox Indian Claims Agreement;

(b) Payments received by certain Indian tribal members under Public Law 94-114, Sec. 6, regarding sub-marginal land held in trust by the United States, or Public Law 94-540;

(c) Payments received from the disposition of funds to the Grand River Band of Ottawa Indians;

(d) Benefits received from the Women, Infants and Children program (WIC);

(e) Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970;

(f) Earned income tax credits since 1975;

(g) Payments received under Title IV CETA amendments of 1978 as follows: Youth incentive entitlement pilot projects, youth community conservation and improvement projects, and youth employment and training programs.

(12) Installment contracts or agreements for the sale of land or other property which is producing income

consistent with its fair market value, and the value of the property sold under the installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property.

(13) Any governmental payments specifically designated for restoration of a home damaged in a disaster if the household is subject to legal sanction if the funds are not used as intended. [Statutory Authority: RCW 74-.04.510. 80-01-056 (Order 1466), § 388-54-695, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-695, filed 3/1/79.]

**WAC 388-54-700 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-705 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-710 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-715 Resources--Nonexempt.** (1) The following shall be considered as resources:

(a) Liquid resources such as cash on hand or in checking or savings accounts, savings certificates, stocks and bonds.

(b) Nonliquid resources such as real property (buildings, land, etc.) and personal property (boats, aircraft, unlicensed vehicles, etc.) which are not exempted by WAC 388-54-695.

(c) Money received in the form of a nonrecurring lump-sum payment, including, but not limited to income tax refunds, rebates or credits; retroactive lump-sum social security SSI, public assistance, railroad retirement benefits or other payment; or lump-sum insurance settlements; or refunds of rental, security or utility deposits.

(2) The value of nonexempt resources, except for licensed vehicles as specified in WAC 388-54-717 of this section, shall be its equity value. The equity value is the fair market value less encumbrances.

(3) Exempt moneys which are kept in a separate account, and that are not commingled in an account with nonexempt funds, shall retain their resource exemption for an unlimited period of time.

(a) Those exempt moneys which are commingled in an account with nonexempt funds shall retain their exemption for six months from the date they are commingled.

(b) After six months from the date of commingling, all funds in the commingled account shall be counted as a resource.

(c) Those exempt moneys of students and self-employed households which are excluded as per WAC 388-54-695(9) and commingled in an account with nonexcluded funds shall retain their exclusion for the period of time over which they have been prorated as income.

(4) Vehicles as provided for in WAC 388-54-717.

(5) Resources owned jointly by separate households shall be considered available in their entirety to each household, unless one household can demonstrate that



this resource or a portion of it is inaccessible to them. [Statutory Authority: RCW 74.04.510. 80-01-056 (Order 1466), § 388-54-715, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-715, filed 3/1/79.]

**WAC 388-54-717 Resources--Vehicles.** In determining the resource value of licensed vehicles, each licensed vehicle will be handled as follows:

(1) Each vehicle will be evaluated to determine if it is exempt.

(a) The entire value of a licensed vehicle shall be excluded if the vehicle is:

(i) Used, over 50% of the time it is in use, for income producing purposes such as, but not limited to, a taxi, truck, or fishing boat;

(ii) Annually producing income consistent with its fair market value even if used only on a seasonal basis;

(iii) Necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member, such as, but not limited to, a traveling salesperson or a migrant farmworker;

(iv) Necessary for subsistence hunting or fishing; or

(v) Used as the household's home.

(b) This exclusion will apply when the vehicle is not in use because of temporary unemployment.

(2) Each vehicle will be evaluated to determine its fair market value.

(a) The fair market value of licensed automobiles, trucks and vans shall be determined by the value of the vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies.

(b) All licensed vehicles not excluded in (1) shall individually be evaluated for fair market value. That portion of the value of each vehicle which exceed \$4,500 shall be attributed in full toward the household's resource level regardless:

(i) Of any encumbrances on the vehicle;

(ii) Of whether or not the vehicle is used to transport household members to and from employment.

(3) Each vehicle will be evaluated to see if it is equity exempt.

(a) Licensed vehicles shall be evaluated for their equity value except:

(i) Vehicles excluded in (1); and,

(ii) One licensed vehicle per household regardless of the use of the vehicle; and,

(iii) Any other licensed vehicles used to transport household members to and from employment, for seeking employment, or for training or education which is preparatory to employment, even during periods of unemployment.

(b) The equity value of licensed vehicles not covered by this exclusion and of unlicensed vehicles not excluded by WAC 388-54-695(1)(e) and (f), shall be attributed toward the household's resource level.

(4) If the vehicle has a countable market value of more than \$4,500 and also has a countable equity value, only the greater of the two amounts shall be counted as a resource. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-717, filed 3/1/79.]

**WAC 388-54-720 Resources--Transfer of property.**

(1) A household which has knowingly transferred any resource for the purpose of qualifying or attempting to qualify for food stamp benefits within the three months immediately preceding the application for food stamp benefits, or after the household is determined eligible, shall be disqualified for up to one year from the date of discovery of the transfer. The penalty shall not apply to the following types of transfers:

(a) Resources which would not effect eligibility;

(b) Resources which are sold or traded at or near fair market value;

(c) Resources which are transferred between members of the same household;

(d) Resources transferred for reasons other than qualifying.

(2) The length of disqualification shall be based on the amount by which nonexempt and transferred resources, when added to other countable resources exceed the allowable resource limits:

Amount in Excess of Resource Limits	Period of Disqualification
\$0 - 249.99	1 month
250 - 999.99	3 months
1,000 - 2,999.99	6 months
3,000 - 4,999.99	9 months
5,000 and over	12 months

[Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-720, filed 3/1/79.]

**WAC 388-54-725 Income--Definitions.** (1) Earned income shall include:

(a) All wages and salaries of an employee;

(b) Total gross income from a self-employment enterprise including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business.

(i) Payments from a roomer or boarder;

(ii) Returns on rental property, only if the household member is engaged in management of said property at least an average of 20 hours a week.

(c) Training allowances from vocational and rehabilitative programs recognized by federal, state or local governments, such as WIN or CETA, to the extent they are not a reimbursement.

(2) Unearned income shall include but not be limited to:

(a) Payments received from federally-aided public assistance programs, general assistance or other assistance programs based on need;

(b) An annuity, pension, retirement, veteran's or disability benefit; workmen's or unemployment compensation; and old-age or survivor's benefits; or strike benefits.

(c) The total payment to a household on behalf of a legally-assigned foster child or adult.

(d) Support and alimony payments from nonhousehold members made directly to the household;

(e) Scholarships, educational grants (including loans on which repayment is deferred), fellowships and veteran's education benefits in excess of amounts excluded. Such income shall be averaged over the period which it is intended to cover;

(f) Payments received from government sponsored programs;

(g) Dividends, interest, royalties and all other direct money payments which are gain or benefit;

(h) Gross income minus cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.

(3) The following items shall be disregarded as income:

(a) Monies withheld voluntarily or involuntarily from an assistance payment, earned income or other source to repay a prior overpayment.

(b) Child support payments received by AFDC recipients which must be transferred to support enforcement. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-725, filed 3/1/79.]

**WAC 388-54-730 Income--Allowable maximums.** The combined monthly net food stamp income of all members of a household shall not exceed the following standards:

Household Size	Maximum Allowable Income
1	\$ 306
2	403
3	500
4	596
5	693
6	790
7	886
8	983
Each additional member	+97

[Statutory Authority: RCW 74.04.510. 79-09-033 (Order 1423), § 388-54-730, filed 8/15/79; 79-03-033 (Order 1374), § 388-54-730, filed 3/1/79.]

**WAC 388-54-735 Income--Exclusions.** The following income is excluded:

(1) 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.

(2) Payments made under the Domestic Volunteer Services Act of 1973. Those payments under Title I (VISTA) to volunteers shall be excluded for those individuals who were receiving public assistance or food stamps at the time they joined VISTA and for those households receiving a VISTA exclusion at the time of conversion to the Food Stamp Act of 1977. Temporary

interruptions in food stamp participation shall not alter the exclusion once an initial determination has been made.

(3) Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes under Public Law 94-114, Section 6, or Public Law 94-540.

(4) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians.

(5) Any payments received by Alaskan Natives under the terms of the Alaskan Native Claims Settlement Act.

(6) Payments from the Special Crisis Intervention Program.

(7) Earnings received by any youth under Title IV CETA amendments of 1978 as follows:

(a) Youth incentive entitlement pilot projects;

(b) Youth community conservation and improvement projects;

(c) Youth employment and training programs.

(8) 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 apply to a student under the parental control of another household member.

If the child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be prorated equally among the working members and the child's pro rata share excluded.

(9) 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 thirty dollars in a three-month period.

(10) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(11) Education loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, OASDI educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped.

(12) Moneys received in the form of a nonrecurring lump-sum payments, such as, but not limited to, 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.

(13) The cost of producing self-employment income.

(14) Reimbursements for past or future expenses not to exceed the actual expense or which do not represent a gain or benefit to the household.

(a) The following are considered reimbursements which are excludable, which do not represent a gain or benefit:

- (i) Flat allowances for job or training-related expenses such as per diem, travel, uniforms and transportation to and from the job or training site.
- (ii) Reimbursements for out-of-pocket expenses of volunteers incurred in the course of their work.
- (iii) Reimbursement for medical or dependent care.
- (iv) Reimbursements of allowances to students for specific education expenses such as travel or books.

(b) The following are considered reimbursements which are not excludable, which do represent a gain or benefit:

Reimbursements for normal living expenses such as rent or mortgage, personal clothing, or food eaten at home.

(15) Any gain or benefit which is not in money, such as in-kind benefits, including public housing, meals or clothing.

(16) Money payments that are not owed or payable directly to a household, but are paid to a third party for a household expense, are vendor payments and are excludable as follows:

(a) A payment made in money on behalf of a household whenever a person or other organization outside of the household uses its own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household.

(b) Rent or mortgage payments, made to landlords or mortgagees by the Department of Housing and Urban Development (HUD) or by state or local housing authorities, are vendor payments and are excluded.

(c) Moneys that are legally obligated and otherwise payable to the household, but which are diverted by the provider of the payment to a third party for a household expense, shall be counted as income and not excluded as a vendor payment.

(17) Moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member. Representative payee payments shall be included, however, as income to the beneficiary's household.

(a) If the intended beneficiaries of a single payment are both household and nonhousehold members, any identifiable portion of the payment intended and used for the care and maintenance of the nonhousehold member shall be excluded.

(b) If the nonhousehold member's portion cannot be readily identified, the payment shall be evenly prorated among intended beneficiaries and the exclusion applied to the nonhousehold members prorata share or the amount actually used for the nonhousehold member's care and maintenance, whichever is less.

(18) Earned income tax credits since 1975. [Statutory Authority: RCW 74.04.510. 80-01-056 (Order 1466), § 388-54-735, filed 12/19/79; 79-08-126 (Order 1421), § 388-54-735, filed 8/1/79; 79-03-033 (Order 1374), § 388-54-735, filed 3/1/79.]

**WAC 388-54-740 Income--Deductions.** In computing net income, only the following deductions shall be allowed:

(1) A standard deduction of \$70 per household per month.

(2) An earned income deduction of 20 percent of gross earned income. Earnings which are excluded in WAC 388-54-735 shall not be included in gross earned income for purposes of computing earned income deductions.

(3) Payments for the care of a child or other dependent when necessary for a household member to accept or continue employment, seek employment, or attend training or education preparatory to employment.

The amount to be deducted for child care shall be the amount actually paid not to exceed \$90. The dependent care deduction in combination with the shelter deduction shall not exceed \$90.

(4) Shelter costs in excess of 50 percent of the household's income after the above deductions. The shelter deductions alone or in combination with the dependent care deduction, shall not exceed \$90.

(a) "Shelter costs" mean rent or mortgage payment plus taxes on a dwelling and property, insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated, assessments, and utility costs such as heat and cooking fuel, electricity, water, garbage, sewage disposal and basic service fee for one telephone (plus tax) and initial installation fees for utility services. One time deposits shall not be included as shelter costs.

Shelter costs shall also include continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.

(b) Shelter costs for a home not occupied because of employment, training away from home, illness or abandonment caused by casualty loss or natural disaster shall be allowed if:

- (i) The household intends to return to the house;
- (ii) The current occupants, if any, are not claiming shelter costs for food stamp purposes;
- (iii) The home is not being leased or rented during the household's absence.

(c) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood.

(d) Standardized amounts shall be used to compute the shelter costs for utilities such as heat and cooking fuel, electricity, water, garbage, sewage disposal, and telephone and shall be effective November 1, 1979.

Persons in Household	Food Stamp Utility Standards	
	November 1, 1979 thru April 30, 1980	May 1, 1980 thru October 31, 1980
1	\$ 98.00	\$62.00
2	105.00	66.00
3	113.00	69.00
4	121.00	72.00
5	127.00	77.00
6	135.00	81.00

Persons in Household	Food Stamp Utility Standards	
	November 1, 1979 thru April 30, 1980	May 1, 1980 thru October 31, 1980
7	141.00	85.00
8	145.00	87.00
9	153.00	90.00
10 or more	159.00	95.00

(e) Households which do not incur any separate utility charges or which are billed separately for only telephone costs, water, sewage, and garbage collection fees shall not be entitled to claim the standard utility allowance.

(f) If a household is not entitled to the standard utility allowance, it may claim actual utility expenses for any utility which it does pay separately, except the telephone.

(g) If a household requests and can verify that its utility bills are higher than the standards, the actual utility costs shall be used.

(i) The telephone standard, for families incurring telephone costs, but not entitled to claim the single standard, is ten dollars.

(ii) A household shall be allowed to switch to or from the standard during its certification period.

(h) The telephone allowance applies to households which are not entitled to claim the overall standard, but which have telephone expenses. [Statutory Authority: RCW 74.04.510. 80-01-056 (Order 1466), § 388-54-740, filed 12/19/79; 79-09-033 (Order 1423), § 388-54-740, filed 8/15/79; 79-03-033 (Order 1374), § 388-54-740, filed 3/1/79.]

**WAC 388-54-745 Income--Computations.** (1) The amount of income to be counted in determining household eligibility and basis of coupon issuance shall be that income including salary advances which has been received or anticipated income the household and the department are reasonably certain will be received during the certification period.

(a) Wages held at the request of the employee shall be considered income in the month the wages would otherwise have been paid by the employer.

(b) Wages held by the employer as a general practice, even in violation of law, shall be counted as income to the household when received.

(2) Income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household unless it has fluctuated so much it cannot be used.

(3) Income received on less than a monthly basis shall be converted into a monthly amount by multiplying the weekly amount by 4.3, and income received every two weeks shall be multiplied by 2.15 to determine monthly income.

(4) Households, except for destitute households and PA households subject to a monthly reporting requirement, may elect to have their income averaged.

(a) To average income, the department shall use the household's anticipation of income fluctuations over the

certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period.

(b) Households which by contract derive their annual income in a period of time shorter than one year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piecework basis. However, these provisions do not apply to migrant or seasonal farmworkers.

(5) Income deductions shall be determined as follows:

(a) Deductions shall be allowed only in the month the expense is billed or otherwise becomes due; amounts carried forward from past billing periods are not deductible, even if included with the most recent billing and actually paid by the household.

(b) A household may elect to have expenses which fluctuate or are billed less often than monthly, averaged over the period the expense is to cover;

(c) The department shall calculate a household's expenses on the basis of anticipated expenses.

(i) The department shall not average past expenses, such as utility bills for the last several months, as a method of anticipating utility costs for the certification period. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-745, filed 3/1/79.]

**WAC 388-54-750 Income--Self-employment.** (1) A household whose primary source of income is from self-employment, including self-employed farmers, shall be certified according to this section.

Self-employment income which is received on a monthly basis but which represents a household's annual support shall normally be averaged over a 12 month period. If, however, the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the department shall calculate the self-employment income based on anticipated earnings.

(2) Income which represents annual income and costs of producing that income are to be computed on a yearly basis and averaged evenly over twelve months to determine eligibility even if it is received in only a short period of time.

(a) Self-employment income which represents only a part of a household's annual support shall be averaged over the period of time the income is intended to cover.

(b) If a household's self-employment enterprise has been in existence for less than a year, this income shall be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

(3) In determining monthly income from self-employment:

(a) The household may choose to determine the benefit level by using either the same net income which was used to determine eligibility, or by unevenly prorating the household's total net income over the period for which the household's self-employment income was averaged. If income is prorated, the net income assigned in

any month cannot exceed the maximum monthly income eligibility standards for the household's size.

(b) For the period of time over which self-employment income is determined the department shall add all gross self-employment income (including capital gains), exclude the cost of producing the self-employment income and divide this income by the number of months over which the income will be averaged.

(c) For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis, the department shall add any capital gains the household anticipates receiving in the next 12 months, starting with the date the application is filed and divide this amount by 12. This amount shall be used in successive certification periods during the next 12 months, but recalculated should anticipated capital gains amounts change. The anticipated monthly amount of capital gains shall be added to the anticipated monthly self-employment income, and subtract the cost of producing the income. Except for depreciation, the cost of producing the income shall be calculated by anticipating the monthly allowable costs of producing the income.

(d) The monthly net self-employment income shall be added to any other earned income received by the household. The total monthly earned income less the 20 percent earned income deduction shall then be added to all other monthly income received by the household. The standard deduction, dependent care, and shelter costs shall be computed as for any other household and subtracted to determine the adjusted monthly net income of the household.

(4) In calculating capital gains, the proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for federal income tax purposes. The department shall count the full amount of the capital gain as income for food stamp purposes even if only 50 percent of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes.

(5) Allowable costs of producing self-employment income include, but are not limited to:

(a) The identifiable costs of labor, stock, raw material, seed and fertilizer, interest paid to purchase income-producing property, insurance premiums, and taxes paid on income-producing property;

(b) Depreciation, which shall be allowed as a cost of producing self-employment income for equipment, machinery or other capital investments necessary to the self-employment enterprise, as documented by a tax return.

(6) The following items shall not be allowed as a cost of producing self-employment income:

(a) Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods;

(b) Net losses from previous periods; and

(c) Federal, state and local income taxes, money set aside for retirement purposes, and other work-related personal expenses, such as transportation to and from work, as these expenses are accounted for by the 20 percent earned income deduction specified.

(7) In assigning certification periods:

(a) Households that receive their annual support from self-employment and have no other source of income may be certified for up to 12 months;

(b) For those households that receive other sources of income or whose self-employment income is intended to cover a period of time that is less than a year, the department shall assign a certification period appropriate for the household's circumstances;

(c) For businesses which have been in operation for such a short time that there is insufficient data to make a reasonable projection, the household may be certified for less than a year until the business has been in operation long enough to base a longer projection.

(d) For those self-employed households that receive their annual income in a short period of time, the initial certification period shall be assigned to bring the household into the annual cycle. [Statutory Authority: RCW 74.04.510, 80-01-056 (Order 1466), § 388-54-750, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-750, filed 3/1/79.]

**WAC 388-54-755 Income--Boarders.** Households receiving income from boarders, except those households operating a commercial boarding house, shall have the income treated as follows:

(1) Income from boarders shall include:

(a) All direct payments to the household for room and meals.

(b) Direct contributions to the household for the household's shelter expenses.

(2) The cost of doing business is deducted. It shall not exceed the payment the household receives from the boarder. The cost of doing business shall include:

(a) The cost of the thrifty food plan for a household size that is equal to the number of boarders.

(b) The actual documented cost of providing room and meals if the actual cost exceeds the appropriate thrifty food plan. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-755, filed 3/1/79.]

**WAC 388-54-760 Certification periods--Duration.**

(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. In no case is the certification period to exceed one year.

(2) Other households shall be certified for at least three months or assigned the longest certification period possible based on the predictability of the household's circumstances, except as follows:

(a) Certification may be for less than three months when there is a possibility of frequent changes in income or household status.

(i) A household eligible for a certification period of 3 months or less shall, at the time of certification, have this certification period increased by 1 month, if the certification process is completed after the 15th day of month of application and the household's circumstances warrant the longer certification period.

(ii) A household with one or more members subject to lockout or on strike shall be assigned a certification period of no more than one month if the household is certified before the 15th day of the month; otherwise the maximum certification period shall be for two months unless the department wishes to assign a longer certification period and the household signs a waiver of notice of adverse action.

(b) In situations in which there is little likelihood of changes in financial situation and household size, the household may be recertified for up to six months.

(c) A household consisting solely of unemployable persons with very stable income from retirement, disability payments, or similar sources may be certified up to twelve months, provided that other household circumstances are expected to remain stable.

(d) A household whose primary source of income is from self-employment, farm operations or farm employment may be certified up to 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). [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-760, filed 3/1/79.]

**WAC 388-54-765 Certification periods--Notices to households.** (1) The applicant household shall be provided with one of the following written notices as soon as determination is made but no later than thirty days after the date of initial application:

(a) Notice of eligibility. Written notice containing the amount of the allotment, beginning and ending dates of the certification period, the right to a fair hearing, an information phone number and information regarding free legal representation.

(b) Notice of denial. Written notice explaining basis for denial, right to a fair hearing, information phone number and information about free legal services.

(c) Notice of pending status. Written notice informing the household that its application is still being processed; whether some action by the household is needed to complete the application, what this action is, and that the application will be denied if the household fails to take the required action within sixty days of the date the application was filed.

(2) Notice of adverse action. Prior to any action to reduce or terminate a household's benefits within the certification period the department shall provide notice to the household at least ten days prior to the action.

(a) This notice shall include:

(i) The proposed action and reason for the action;

(ii) The household's right to a fair hearing;

(iii) An information telephone number;

(iv) The availability of continued benefits;

(v) The liability for any overissuances received while awaiting a fair hearing if the decision is adverse to the household;

(vi) Notice of availability of free legal services.

(b) A notice of adverse action is not required when:

(i) Mass changes are made by federal or state government, except as provided for in subdivision (c) of this subsection;

(ii) The department determines that the members of a household have died;

(iii) The household has moved from the project area;

(iv) Restoration of lost benefits is completed and the household was previously notified in writing of when the increased allotment would terminate;

(v) Allotment varies from month to month and the household was notified at the time of certification that these changes would be made;

(vi) If the household experiences reduction in benefits upon approval of a PA grant and was so notified at the time of application;

(vii) A household member is disqualified for fraud or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member;

(viii) The household contains a member subject to a lockout or strike and signs a waiver of its right to notice of adverse action for purposes of receiving a longer certification period than is otherwise allowed for such households.

(c) A notice of adverse action will be required because of mass changes resulting from the implementation of the Food Stamp Act of 1977. The department shall send an individual notice of adverse action to each household that receives a reduction or termination in benefits during its certification period due to these regulations. The notice of adverse action shall explain to the household:

(i) That the change is the result of changes in federal law;

(ii) That although the household has the right to request a fair hearing, benefits will be continued pending the fair hearing only if the household believes its eligibility or benefit level was computed incorrectly under the new law, or that the new law is being misapplied or misinterpreted.

(d) Instead of an individual notice, the department shall send a general notice to all or part of the food stamp caseload when new eligibility rules are matched by computer with current history file information.

The general notice shall explain that the cause of the allotment change, if any, is the Food Stamp Act of 1977, and the circumstances for continuing or reinstating the household's former level of benefits as in an individual notice. The general notice shall be sent no later than the allotment of ATP that adjusts the household's benefits to the new program. [Statutory Authority: RCW 74.04.510, 79-07-057 (Order 1408), § 388-54-765, filed 6/25/79; 79-03-033 (Order 1374), § 388-54-765, filed 3/1/79.]

**WAC 388-54-770 Certification periods--Reporting changes during.** (1) The recipient household is required to report the only following changes in circumstances:

(a) All changes in income of more than \$25.00, except changes in public assistance grants.

(b) All changes in household composition such as addition or loss of a household member.



(c) Changes in residence and the resulting change in shelter costs.

(d) The acquisition of a licensed vehicle not fully exempt under WAC 388-54-717.

(e) When nonexempt liquid resources reach or exceed \$1,750.00. (See WAC 388-54-715(1)(a)).

(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) Changes shall be considered to be reported by the household on the date the report is received by the CSO or if mailed the date the household's report is postmarked.

(4) Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the fraud disqualification procedures.

(5) The client is entitled to receive:

(a) A change report form at the time of initial certification.

(b) Acknowledgment of receipt of a notice of change given by the client to the department pursuant to subsection (2) above.

(c) Notification of the amount of change in the allotment if the reported change results in such an adjustment.

(d) Notification of any additional verification requirements brought about by the reported change of circumstances.

(e) Notification that failure to provide required verification will result in increased benefits reverting to the original allotment.

(f) A new change report form when a change has been reported. [Statutory Authority: RCW 74.04.510. 80-01-056 (Order 1466), § 388-54-770, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-770, filed 3/1/79.]

**WAC 388-54-775 Certification periods—Effecting changes during.** (1) For changes which result in an increase in benefits the department will make the change effective not later than the first allotment issued 10 days after the change was reported to the department.

(2) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50 or more in the household's gross monthly income, the department shall:

(a) Make the change effective not later than the first allotment issued 10 days after the date the change was reported, except that;

(b) In no event shall these changes take effect any later than the month following the month in which the change is reported.

(3) If the household's benefit level decreases or the household becomes ineligible as a result of the change, the department will take the following action:

(a) Issue a notice of adverse action within 10 days of the date the change was reported.

(b) The decrease in the benefit level shall be made effective with the first allotment to be issued after the 10 day notice of adverse action has expired, provided a fair

hearing and continuation of benefits have not been requested.

(4) If the department discovers that the household has failed to report a change as required and has received benefits to which it was not entitled, the department shall file a claim against the household for the amount of the overpayment.

Individuals shall not be terminated for failing to report a change, unless the individual is disqualified in accordance with the fraud disqualification procedures.

(5) Public assistance households which report a change in circumstances to the department shall be considered to have reported the change for food stamp purposes.

(6) Changes reported to the department pursuant to WAC 388-54-770(2), whether they result in an increase, decrease or no change in the allotment amount shall be documented in the case records as to:

(a) Date received; and

(b) Circumstances.

(7) If the department fails to take action on reported changes as specified in subsection (1) above, restoration of lost benefits shall be provided to the client.

(8) Verification of circumstances which result in an increased allotment shall be provided by the client. Such verification must be obtained prior to the issuance of the second monthly allotment after the change is reported.

(a) If the client does not provide verification, benefits will revert to the original allotment level without a notice of adverse action.

(b) If the department determines that a client has refused to cooperate, the client's eligibility shall be terminated following a notice of adverse action. [Statutory Authority: RCW 74.04.510. 80-01-056 (Order 1466), § 388-54-775, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-775, filed 3/1/79.]

**WAC 388-54-780 Recertification process.** (1) If the household makes timely application, recertification shall be completed prior to the expiration of the current certification period to give members opportunity to participate in a normal issuance cycle the month following.

(2) A notice of expiration must be provided to the households except for joint PA applicant households.

(a) Not earlier than 15 days prior to, and not later than, the first day of the household's last month of certification, for households certified over a multi-month period; or,

(b) At the time of certification, if the household is certified for one month, or initially certified for 2 months during the month after the month of application.

(c) The notice shall contain:

(i) The date the current certification ends.

(ii) The date the household must file to receive uninterrupted benefits.

(iii) The household's right to request an application and have the department accept an application so long as it is signed and contains a legible name and address.

(iv) The address of the office where the application must be filed.

(v) The consequences of failure to comply with the notice.

(vi) The right to file through an authorized representative or through the mail.

(vii) The right to a fair hearing.

(d) A household provided a notice of expiration at the time of certification has 15 days from the date the notice is received to apply. All other households must apply by the 15th of the last month of certification to be considered timely.

(3) A household that has applied in a timely manner and has been determined eligible shall experience no interruption in benefits.

(a) Those provided notice at time of certification shall be notified of their status and provided an opportunity to participate not later than 30 days after the date the household had an opportunity to obtain its last allotment.

(b) Those applying by the 15th day of the last month of their certification period shall be approved or denied and notified of their status by the end of their current certification period and permitted to participate in their normal issuance cycle.

(c) Those household which through department error were not recertified in time to participate in their normal issuance cycle shall be given immediate opportunity to do so even outside of the normal issuance system.

(4) Households not able to participate in accordance with (3) above through department error shall be entitled to restoration of lost benefits if their benefits were interrupted.

(5) A household which fails to submit a timely application for recertification or appear for an interview scheduled after a timely reapplication, without good cause, shall lose its right to uninterrupted benefits

(a) A household which refuses to cooperate in providing required information shall be denied;

(b) An application not submitted in a timely manner shall be treated as an application for initial certification except that previously verified income or expenses which change by \$25 or less shall not be verified if the application is received within 30 days after the certification period expires.

(6) If a household's failure to apply in a timely manner was with good cause, the department will restore to the household the lost benefits, if there was interruption of benefits. Determination of good cause shall be made on a case-by-case and shall include, but not be limited to, failure to receive timely notice of expiration or personal illness. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-780, filed 3/1/79.]

#### WAC 388-54-785 Issuance--Monthly allotments.

(1) The maximum allowable income standards for determining eligibility for all households are as follows:

Household Size	Maximum Allowable Monthly Income Standards 48 States and D.C.
1	\$ 306
2	403
3	500
4	596
5	693
6	790
7	886
8	983
Each additional member	+97

(2) To determine the benefit households shall receive:

(a) Subtract 30 percent of the household's net monthly income from the thrifty food plan for that household size.

Household Size	Thrifty Food Plan Amounts
1	\$ 61
2	112
3	161
4	204
5	242
6	291
7	321
8	367
Each additional member	+46

(b) All one and two person households shall receive a minimum monthly allotment of \$10.00. [Statutory Authority: RCW 74.04.510. 79-09-033 (Order 1423), § 388-54-785, filed 8/15/79; 79-03-033 (Order 1374), § 388-54-785, filed 3/1/79.]

#### WAC 388-54-790 Issuance--Use and redemption.

(1) The department may issue food coupons through:

(a) An authorization to participate (ATP) system in which an authorizing document is distributed on a monthly basis to the household and surrendered to the coupon issuer when coupons are obtained, or;

(b) A direct coupon mailout system.

(2) In the use or redemption of coupons by eligible households:

(a) A household member should sign each coupon book issued to the household. The coupons may be used only by the household or other persons the household selects to purchase eligible food for the household.

(b) Uncanceled and unendorsed coupons of \$1 denomination, returned as change by authorized retail food stores, may be presented as payment for eligible food. All other detached coupons may be accepted only if accompanied by the coupon book which bears the same serial number as the detached coupons. It is the right of the household or the authorized representative to detach the coupons from the book.

(c) When change in an amount less than \$1 is required in a coupon transaction, the household shall receive the change in cash not to exceed 99 cents.

(d) Upon request, the household or the authorized representative shall present the household's ID card to

the retail food store or meal service when exchanging food coupons for eligible food.

(e) 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 meal service. Neither shall coupons be used to pay for any eligible food in advance of the receipt of food, except when prior payment is for food purchased from a non-profit cooperative food purchasing venture.

(3) Where the direct mail system is used to issue coupons:

(a) After two consecutive reported mail losses by a household, the department shall consider other means to deliver program benefits to the household.

(b) To minimize mail theft exposure, direct mail issuances shall be staggered through the 10th of the month, and may be staggered through the 15th day provided that each household will likely receive its coupons on the same date every month.

(c) When a household reports the nondelivery of coupons issued through the mail, the department shall issue replacement coupons to the household within 5 working days after the report of nondelivery has been received.

(4) In case of lost or stolen ATPs:

(a) The department shall issue an emergency replacement ATP only if the original is reported lost or stolen in the period for which it was intended;

(b) The participant must sign an affidavit stating that the original ATP will be returned to the department if recovered by the household.

(5) The department shall maintain issuance records for a period of three years from the month of origin. This period may be extended at the written request of FNS.

(6) In returning coupons, the following shall apply:

(a) 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 FNS for a refund on the same ratio of cash to coupons as was applied by the department in the issuance of the coupons to the household.

(b) A request for a refund shall be submitted to the department. The request shall be in ink or typed, contain the claimant's address, be dated and signed. The unused coupons shall be attached. The department shall then provide a copy of the refund request to the household as a receipt for the coupons.

(c) The department shall forward claims to FNS for payment. The claimant's request for a refund, Request for Reimbursement or Notification of Return of Unused Food Coupons for Refund, and the unused coupons shall be forwarded to FNS by the department.

(d) Six months after elimination of the purchase requirement, no refunds shall be paid for coupons returned to FNS.

(e) Households which still have old series coupons shall be entitled to a dollar for dollar exchange of old series coupons for new series coupons. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-790, filed 3/1/79.]

#### **WAC 388-54-795 Issuance--Identification cards.**

(1) The CSO shall furnish each certified household with an ID card, which will be signed by the person the household designates as head of household and the authorized representative.

(2) Specially marked ID cards shall be issued as follows;

(a) M for household using delivered meal service,

(b) CD for communal dining facilities. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-795, filed 3/1/79.]

#### **WAC 388-54-800 Issuance--Replacement allotments.**

(1) Households may request a replacement for that portion of its allotment received, but subsequently

(a) Destroyed by disaster such as fire or flood,

(b) Stolen.

(2) The household must sign an affidavit at the department attesting to the theft or destruction. If the coupons were stolen, the household must report the theft to the police, provide the department with a copy of the police report, or sufficient information to permit the department to verify that a report has been made to the police.

(3) The department shall provide eligible households with an opportunity to obtain the replacement allotment within 5 working days of the date the theft or destruction was reported to the department.

(4) The department shall also provide replacement for coupons received and subsequently either found to be improperly manufactured or mutilated. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-800, filed 3/1/79.]

#### **WAC 388-54-805 Issuance--Restoration of lost benefits.**

(1) Whenever a household receives fewer benefits than it is entitled to receive as a result of error by the department, the department shall restore those benefits which were lost within 12 months of:

(a) The month the department was notified by the household or by another person or agency in writing or orally of the possible loss.

(b) The month the department discovers that a loss to a specific household has occurred;

(c) The date the household requested a fair hearing to contest the adverse action which resulted in the loss.

(2) Benefits shall be restored even if the household is currently ineligible.

(3) The 12-month limitation does not apply to benefits which are restored as a result of a reversal of a fraud disqualification penalty.

(4) The department shall notify the household of its entitlement, the amount of benefits to be restored, the method of restoration and the right to appeal, and any offsetting that was done.

(5) If the department determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored or with any other action taken by the department, the household may request a fair hearing within 90 days of the date

the household is notified of its entitlement to restoration of lost benefits.

(a) If a fair hearing is requested prior to or during the time lost benefits are being restored, the household shall continue to receive the lost benefits, as determined by the department, pending the result of the fair hearing.

(b) If the fair hearing decision is favorable to the household, the department shall restore the lost benefits in accordance with that decision.

(c) If a household and the department disagree about the household's entitlement to restoration of lost benefits, the household has 90 days from the date of the department determination to request a fair hearing. The department shall restore lost benefits to the household only if the fair hearing decision is favorable to the household. Benefits lost more than 12 months prior to the date the department was initially informed of the household's possible entitlement shall not be restored.

(6) Individuals disqualified for fraud are entitled to restoration of benefits lost during the months they were disqualified only if the decision which resulted in disqualification is subsequently reversed. Benefits shall be restored regardless of the length of time that has elapsed since the household member was disqualified.

(7) The department shall restore lost benefits to a household whether or not it is currently eligible or ineligible, by issuing an allotment equal to the amount of benefits that were lost.

(8) The department shall restore lost benefits that occurred prior to elimination of the purchase requirement. Households assigned a purchase requirement that was too high or assigned an incorrect household size shall be entitled to restoration of their lost benefits. The amount shall be equal to the difference between the bonus stamps the household received and the correct amount the household should have received.

(9) Whenever lost benefits are due a household and the household's membership has changed, the department shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the department cannot locate or determine the household which contains this majority, it shall restore the lost benefits to the household containing the head of the household at the time the loss occurred.

(10) The department shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears the excess coupons may be stolen, or that the amount to be restored is more than it can use in a reasonable period of time. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-805, filed 3/1/79.]

**WAC 388-54-810 Issuance--Sixty day continuation of benefits.** (1) The department shall provide for continuation of certification for two months after the month the household moves from one project area to the other provided:

(a) The household membership does not change;

(b) Was not certified under disaster eligibility standards or

(c) Continues to meet the definition of household,

(d) Was not certified under expedited procedures, unless the verification that was initially postponed was subsequently completed.

(e) Does not contain an SSI member when moving into the cash-out states of Massachusetts or Wisconsin.

(2) The project area from which the household is moving shall prepare the Certification of Transfer of Household Benefits (FNS-286).

(a) If the household has received its coupon allotment for the month in which the move takes place, a two months extension of certification can be authorized.

(3) The new project area shall accept the Certification of Transfer and issue the allotment therein authorized.

(4) The household shall report any changes in circumstances to the new project area, and the project area will act on these changes, except that in no event would the changes reported affect the initial issuance under the form FNS-286. However, the second issuance in the new project area, if any, shall reflect changes reported.

(5) Households which move from the new project area during the two months covered by the FNS-286 shall be issued:

(a) A form FNS-286 for the balance of the period covered by original form, and which reflects the changes reported at the time the form was accepted in the new project area;

(b) A new form FNS-286 for an additional two months if the household was recertified in the new project area. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-810, filed 3/1/79.]

**WAC 388-54-815 Fair hearings.** Fair hearings for food stamp purposes shall be conducted as set forth in WAC 388-08, except for provisions listed below:

(1) Each household shall be provided with a notification of right to a hearing.

(a) At the time of application, notification shall be made in writing to the household of its rights to a hearing, of the method by which a hearing may be requested and that its case may be presented by a household member or a representative.

(b) Any time the household expressed to the department that it disagrees with a department action, it shall be reminded of the right to request a fair hearing.

(c) The household shall be reminded of individuals or organizations available that provide free legal representative.

(2) A household shall be allowed to request a fair hearing:

(a) On any action by the department or loss of benefits which occurred in the prior 90 days;

(b) On a denial of a request for restoration of any benefits lost more than 60 days, but less than a year prior to the request;

(c) At any time within a certification period to dispute its current level of benefits.

(3) The department shall offer a conference to households:

(a) Which wish to contest a denial of expedited service. This conference shall be scheduled within two working days unless the household indicates it wants it later or does not want a conference at all.

(b) Which are adversely affected by an agency action.

(c) The department shall advise the household that use of a conference shall in no way delay or replace the fair hearing.

(4) The department shall have the following responsibilities on receiving hearing request:

(a) The department, upon request, shall make available, without charge, the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing.

(b) If the individual making the request speaks a language other than English, the department shall insure that the hearing procedures are verbally explained in that language but only in those areas in which the department is required to provide the appropriate bilingual staff.

(c) The department shall also help a household with its hearing request.

(d) If a household makes an oral request for a hearing, the department shall confirm the request in writing and forward the written confirmation to the fair hearing office to start the fair hearing process.

(e) The department shall inform the household of the availability of legal services which can provide representation at the hearing.

(5) The department shall expedite hearing requests from households, such as migrant farmworkers, that plan to move from the state before the hearing decision would normally be reached. Hearing requests from these individuals shall be processed faster than others if necessary to enable them to receive a decision before they leave the area.

(6) The department shall publish clearly written uniform rules of procedure that conform to the fair hearing regulations and shall make the rules available to any interested party. These shall include:

(a) Time limits for hearing requests,

(b) Advance notification requirements,

(c) Hearing timeliness standards,

(d) Rights and responsibilities of persons requesting a hearing.

(7) The secretary or his designee shall not deny or dismiss a request for a hearing unless:

(a) The request is not received within the time period specified.

(b) The request is withdrawn in writing by the household or its representative.

(c) The household or its representative fails, without good cause, to appear at the scheduled hearing.

(8) When a household is notified of the time and place of the fair hearing, it shall also be advised:

(a) Of the name, address and phone number of the person to notify in the event it is not possible for the household to attend the scheduled hearing;

(b) That the secretary or his designee will dismiss the hearing request if the household or its representative fails to appear for the hearing without good cause;

(c) Of any hearing procedures and other information that would provide the household with an understanding of the proceedings and that would contribute to the effective presentation of the household's case;

(d) That the household or representative may examine the case file prior to the hearing.

(9) When a hearing decision has been reached, the secretary or his designee shall notify the household in writing of:

(a) The reasons for the decision;

(b) The evidence which supports the decision;

(c) The federal regulations as codified in WAC;

(d) The household's appeal rights;

(e) That the household's benefits will be issued or terminated as decided by the hearing authority.

(10) The hearing decision is binding upon the department.

(11) The department will be responsible for insuring that the hearing decision is carried out:

(a) If the hearing authority determines that a household has been improperly denied program benefits or has been issued a lesser allotment than was due, lost benefits shall be provided to the household.

(b) If the hearing authority upholds the department's action, a claim against the household for any overissuances shall be prepared and executed.

(12) Within 60 days of receipt of a request for a fair hearing or within 90 days of notification that a fraud hearing has been initiated, the department shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision.

(a) Decisions which result in an increase in household benefits shall be reflected in the coupon allotment within 10 days of the receipt of the hearing decision even if the department must provide a supplementary ATP or otherwise provide the household with the opportunity to obtain the allotment outside of the normal issuance cycle.

(b) Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

(13) The household may request and is entitled to receive a postponement of the scheduled hearing.

(a) The postponement shall not exceed 30 days and

(b) The time limit for action on the decision may be extended for as many days as the hearing is postponed.

[Statutory Authority: RCW 74.04.510. 80-01-056 (Order 1466), § 388-54-815, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-815, filed 3/1/79.]

**WAC 388-54-820 Fair hearings—Continuation of benefits pending.** (1) The household is entitled to continuation of benefits if:

(a) It requests a fair hearing within the period specified by the notice of adverse action;

(b) Its certification period has not expired;

(c) It has not waived continuation of benefits.

(2) If a hearing request is not made within the period provided by the notice of adverse action, benefits shall

be reduced or terminated as provided in the notice, unless failure to make the request was for good cause.

(a) Once continued or reinstated, benefits shall not be reduced or terminated prior to receipt of the hearing decisions unless:

(i) The certification period expires;

(ii) The hearing examiner makes a preliminary determination in writing and at the hearing that it is a matter of policy;

(iii) 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 subsequent notice of adverse action; or

(iv) A mass change occurs while the hearing decision is pending.

(3) The CSO shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

(4) When benefits are reduced or terminated due to a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that food stamp eligibility or benefits were improperly computed or that federal law or regulation is being misapplied or misinterpreted by the department.

(5) If the department's action is upheld by the hearing decision, a claim against the household shall be established for all overissuances.

(6) The department shall send an individual notice of the adverse action to each household that receives a reduction or termination in benefits during its certification period due to mass changes resulting from implementation of the Food Stamp Act of 1977. The notice of adverse action shall explain to the household that the change is the result of changes in federal law and that although the household has the right to request a fair hearing, benefits will be continued pending the fair hearing only if the household believes its eligibility or benefits level was computed incorrectly under the new law, or that the new law is being misapplied or misinterpreted. [Statutory Authority: RCW 74.04.510, 79-07-057 (Order 1408), § 388-54-820, filed 6/25/79; 79-03-033 (Order 1374), § 388-54-820, filed 3/1/79.]

**WAC 388-54-825 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-54-826 Fraud disqualification--Administrative fraud hearing determined.** (1) Fraud disqualification penalties. These rules are effective July 1, 1979. Individuals found to have committed fraud through an administrative fraud hearing shall be ineligible to participate in the program for three months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than six months and not more than 24 months as determined by the court. The department shall disqualify only the individual and not the entire household.

(2) Definition of fraud. For purpose of determining at an administrative fraud hearing whether or not fraud was committed, fraud shall consist of any action by an

individual to knowingly, willfully, and with deceitful intent:

(a) Make a false statement to the state agency, either orally or in writing, to obtain benefits to which the household is not entitled;

(b) Conceal information to obtain benefits to which the household is not entitled;

(c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;

(d) Use coupons to buy expensive or conspicuous non-food items;

(e) Use or possess improperly obtained coupons or authorization cards;

(f) Trade or sell coupons or authorization cards.

(3) Administrative disqualification. The department's procedures for conducting fraud hearings are outlined in this section. An administrative fraud hearing shall be initiated by the department whenever the department has documented evidence to substantiate that a currently certified household member has committed one or more acts of fraud as defined in subsection (2) of this section. Fraud hearings shall not be conducted if the amount the department suspects has been fraudulently obtained is less than \$35 or if the value of the ineligible items that have been purchased with food stamps is under \$35. The burden of proving fraud is on the department. If the household member is not certified when the suspected fraud is discovered, the department shall initiate the hearing when the household member becomes certified. The administrative fraud hearing may still be conducted regardless of whether other legal action is planned against the household member.

(a) Consolidation of administrative fraud hearing with fair hearing. The office of hearings may combine a fair hearing and an administrative fraud hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that the hearings will be combined. If the fraud hearing and fair hearing are combined, the department shall follow the timeliness standards for conducting fraud hearings.

(b) Fraud hearing procedures.

(i) The department provides state level administrative fraud hearings. The procedure for decision rendering is described in WAC 388-54-827.

(ii) The following provisions apply to administrative fraud hearings:

(A) Hearing official. Hearings shall be conducted and decisions rendered by impartial examiners who: do not have any personal stake or involvement in the case; were not directly involved in the initial determination of the action which is being contested; and were not the immediate supervisor of the eligibility worker who took the action. The hearing official shall:

(I) Administer oaths or affirmations if required by the state;

(II) Ensure that all relevant issues are considered;

(III) Request, receive and make part of the record all evidence determined necessary to decide the issues being raised;



(IV) Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;

(V) Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the department;

(B) Attendance at hearing. The hearing shall be attended by a representative of the department and by the household and/or its representative. The hearing may also be attended by friends or relatives of the household if the household so chooses. The hearing examiner shall have the authority to limit the number of persons in attendance at the hearing if space limitations exist.

(C) Household rights during hearing. The household may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the household feel most at ease. The household or its representative must be given adequate opportunity to:

(I) Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the department to establish the household's ineligibility or eligibility, and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the department shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.

(II) Present the case or have it presented by a legal counsel or other person.

(III) Bring witnesses.

(IV) Advance arguments without undue interference.

(V) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.

(VI) Submit evidence to establish all pertinent facts and circumstances in the case.

(D) Hearing decisions.

(I) Decisions of the hearing authority shall comply with department regulations and shall be based on the hearing record. This record shall be available to the household or its representative at any reasonable time for copying and inspection.

(II) At the fraud hearing the hearing examiner shall advise the household member or representative that the household member may refuse to answer questions during the hearing.

(III) Within 90 days of the date the household member is notified in writing that a hearing initiated by the department has been scheduled the department shall conduct the hearing, arrive at a decision, and initiate

administrative action which will make the decision effective. The household member or representative is entitled to a postponement of up to 30 days. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed.

(c) Advance notice of hearing.

(i) The department shall provide written notice to the household member suspected of fraud at least 30 days in advance of the date a fraud hearing initiated by the department has been scheduled. The notice shall be mailed certified mail return receipt requested, and shall contain, at a minimum:

(A) The date, time, and place of the hearing;

(B) The charge(s) against the household member;

(C) A summary of the evidence, and how and where the evidence can be examined;

(D) A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;

(E) A warning that a determination of fraud will result in a three-month disqualification;

(F) A listing of the household member's rights as contained in WAC 388-54-826(3)(b)(ii)(C).

(G) A statement that the hearing does not preclude the state or federal government from prosecuting the household member for fraud in a civil or criminal court action, or from collecting the overissuance;

(H) A statement that the individual can call the food stamp office to get the name and phone number of someone who can give free legal advice. If free legal advice is not available, the food stamp office shall provide, when called, the phone number of a lawyer referral service of the local bar association.

(ii) A copy of the department's published hearing procedures shall be attached to the 30-day advance notice;

(d) Scheduling of hearing. The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of fraud.

(i) If the household member or its representative cannot be located or fails to appear at a hearing initiated by the department without good cause, the hearing shall be conducted without the household member represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if fraud was committed based on clear and convincing evidence. If the household member is found to have committed fraud but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid and the office of hearings shall conduct a new hearing. The household member has ten days from receipt of the notice of the fraud decision to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

(e) Participation while awaiting a hearing. A pending fraud hearing shall not affect the individual's or the household's right to be certified and participate in the program. Since the department cannot disqualify a household member for fraud until the hearing authority

finds that the individual has committed fraud, the department shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. The department shall also reduce or terminate the household's benefits if the department has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of fraud and the resulting fraud hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing.

(f) Criteria for determining fraud. The hearing authority shall base the determination of fraud on clear and convincing evidence which demonstrates that the household member knowingly, willfully, and with deceitful intent committed fraud, as defined in subsection (2) of this section.

(g) Decision format. The hearing authority's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent regulation, and respond to reasoned arguments made by the household member or representative.

(h) Appeal rights of the household member. If the hearing authority rules that the household member has committed fraud, the household member may appeal the decision to court. After a household member has been found to have committed fraud by the hearing authority, the household member shall be disqualified for three months beginning with the first month which follows the date the household member has received the hearing decision. The disqualification period shall be three months, without regard to the amount of food stamps fraudulently obtained or the number of fraudulent acts the hearing finds the individual has committed. No further administrative appeal procedure exists after an adverse department hearing. The determination of fraud made by a fraud hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay or other injunctive remedy.

(i) Notification of hearing decision.

(ii) If the hearing authority finds that the household member did not commit fraud, the hearing authority shall provide a written notice which informs the household member of the decision.

(iii) If the administrative fraud hearing authority finds that the household member committed fraud, the department shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The decision shall inform the household member of the date disqualification will take effect. [Statutory Authority: RCW 74.04.510. 79-10-084 (Order 1435), § 388-54-826, filed 9/21/79.]

**WAC 388-54-827 Fraud administrative hearing-- Decision rendering process.** (1) Initial decision. These rules are effective July 1, 1979.

(a) The hearing examiner who conducted the hearing shall write an initial decision. The hearing examiner shall file the original of the initial decision in the record of the proceedings and shall mail copies of the initial decision to the parties and their representatives.

(b) The initial decision shall automatically become the final decision of the Secretary if no petition for review is filed in accordance with subsection (2) below within ten days of mailing of the initial decision.

(2) Petition for review.

(a) Within ten days of mailing of the initial decision either party may petition a review examiner, in writing, for review of the initial decision. The petition for review shall set forth in detail the basis for the requested review and shall be mailed postage prepaid to the Office of Hearings and to the other party's last known address.

(b) The petition shall be based on any one of the following grounds materially affecting the substantial rights of a party:

(i) Irregularity in the proceedings by which the moving party was prevented from having a fair hearing. This includes misconduct by the prevailing party and misconduct or abuse of discretion by the hearing examiner.

(ii) The findings of fact are unsupported by substantial evidence in view of the entire record.

(iii) Errors of law.

(iv) Need for clarification in order for the parties to implement the decision.

(v) The decision entered when the appellant failed to appear at the hearing should be vacated and the matter remanded upon a showing that the household member had good cause for not appearing at the hearing.

(c) Within fifteen days of mailing of the initial decision and where one party has filed a petition for review, the responding party may reply in writing to the petition for review. The response shall be mailed postage prepaid to the Office of Hearings and to the other party's last known address.

(3) Procedure for review by review examiner.

(a) A petition for review shall be granted only if, in the reasoned opinion of the review examiner, one of the grounds for review set forth in subsection (2) above are shown. Otherwise, the petition for review shall be denied and the initial decision shall be the final decision of the Secretary as of the date of denial of the petition(s) for review.

(b) In determining whether to grant review and in reviewing the initial decision the review examiner shall consider the initial decision, the petition(s) for review and any reply(s) thereto, the record or any part thereof, and any additional evidence submitted by the agreement of both parties in accordance with subsections (3)(d) and (e) below.

(c) If review is granted, the hearing examiner's initial findings of fact, conclusions of law, and decision shall not be modified by the review examiner unless, in the reasoned opinion of the review examiner:

(i) The findings of fact are unsupported by substantial evidence in view of the entire record, and/or

(ii) The application of law is erroneous, and/or

(iii) One or more of the grounds for filing a petition for review set forth at (2)(b) above is satisfied.

(d) The review examiner may accept additional evidence to correct omissions in the record, but only after notice to and agreement by both parties.

(e) The review examiner may remand the proceedings to the hearing examiner for additional evidence or argument if:

(i) Neither party cited the law correctly applicable to the issue(s) defined at the hearing and additional evidence or argument is needed for the review examiner to reach a reasoned decision. Nothing in this subsection shall be construed to allow the review examiner to remand the case to consider additional grounds for ineligibility or allegations of fraud which were not alleged by the department at the hearing, and/or

(ii) Irregularity in the proceedings occurred by which the party seeking review was prevented from having a fair hearing and additional evidence or argument is necessary to cure the irregularity, and/or

(iii) The review examiner considers a remand necessary and both parties assent to the remand.

(f) If review is granted, the review examiner shall render a reasoned decision affirming, reversing, modifying, or remanding the initial decision. That decision shall be final on the date of filing and shall be the final decision of the Secretary. The review examiner shall file the original of the final decision in the record of the proceedings and shall mail copies to the parties and their representatives. [Statutory Authority: RCW 74.04.510. 79-10-084 (Order 1435), § 388-54-827, filed 9/21/79.]

**WAC 388-54-828 Fraud disqualification--Court imposed.** (1) Court-ordered disqualifications of not less than six months and not more than twenty-four months may be imposed separate and apart from any action taken by the department.

(2) The department shall recommend to the courts that a disqualification penalty as provided in section (6)(b) of the Food Stamp Act be imposed in addition to any other civil or criminal fraud penalties.

(3) The department shall disqualify an individual found guilty of fraud by the courts only when the court orders disqualification and only for the length of time specified by the court. When the court does not specify a date for initiating the disqualification period, the department shall initiate the disqualification period with the first month following the date the disqualification was ordered.

(4) The department shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.

(5) These rules are effective July 1, 1979. [Statutory Authority: RCW 74.04.510. 79-10-084 (Order 1435), § 388-54-828, filed 9/21/79.]

**WAC 388-54-830 Treatment of income and resources of disqualified members.** During the period of time a household member is disqualified:

(1) The resources of the disqualified member shall continue to count in their entirety to the remaining eligible household members.

(2) A pro rata share of the income of the disqualified member less allowable exclusions shall be counted as income to the remaining members. The 20% earned income deduction shall apply.

(3) That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified member shall be divided evenly among the household members including the disqualified member. All but the disqualified member's share is counted as a deductible shelter expense for the remaining household members.

(4) The disqualified member shall not be included when determining the household size for purposes of assigning a benefit level, or for purposes of comparing the household's net monthly income with the income eligibility standards.

(5) Whenever an individual is disqualified within the household's certification period, the department shall determine the eligibility or ineligibility of the remaining household members based on information in the case file and shall take the following action:

(a) Fraud disqualification. If the household's benefits are reduced or terminated because one of its members has been disqualified for fraud, no notice of adverse action is required. However, a written notice shall be sent at the same time the notice of disqualification is sent, informing the household of its revised eligibility and benefits levels. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-830, filed 3/1/79.]

**WAC 388-54-835 Claims against households--Nonfraud.** (1) A claim shall be established against any household that has received more benefits than it was entitled to receive if less than 12 months have elapsed between the month a nonfraud overissuance occurred and the month the department discovered it.

(2) Nonfraud claims shall not be established against a household:

(a) That has transacted an expired ATP unless the household has altered the ATP.

(b) That failed to sign the application form, completed a current work registration form, was certified in the incorrect project area, or received food stamp benefits after its certification period had expired, as a result of department oversights.

(c) That did not receive food stamp benefits at a reduced level because its public assistance grant changed and the department failed to act.

(3) A household shall not be held liable for a claim because of a change in household circumstances which it is not required to report according to WAC 388-54-770(1).

(4) In calculating the amount of the nonfraud claim, the department shall determine the correct amount of food stamp benefits the household should have received

after excluding those months that are more than 12 months prior to the date the overissuance was discovered. In cases involving reported changes, the department shall determine the month the overissuance initially occurred as follows:

(a) If the household failed to report a change within 10 days of the date the change became known to the household due to misunderstandings or inadvertent error, the first month affected by the household's failure to report shall be the month the change occurred.

(b) If the household timely reported a change, but the department did not timely act on the change, the first month affected by the department's failure to act shall be the first month the department should have made the change effective.

(5) After calculating the amount of the nonfraud claim, the department shall offset the amount of the claim against any amounts which have not yet been restored to the household pursuant to WAC 388-54-805.

(6) The department shall initiate collection action on all nonfraud claims unless the claim is collected through offset or one of the following conditions apply:

(a) The total amount of the nonfraud claim is less than \$35.00.

(b) The department has documentation which shows that the household cannot be located.

(c) The department shall initiate collection action by sending the household a written demand letter which informs the household:

(i) The amount owed and the reason for the claim;

(ii) The period of time the claim covers;

(iii) Any offsetting that was done to reduce the claim and how the household may pay the claim;

(iv) The household's right to a fair hearing;

(v) The statement which specifies that if a household is delinquent in repayment or is unable to pay the claim, the household's eligibility or level of benefits will not be affected.

(d) If the household does not respond to the first demand letter, additional letters shall be sent at 30 day intervals until the household has responded by paying or agreeing to pay the claim or until criteria for suspending or terminating collection action have been met.

(7) Collection of a nonfraud claim shall be suspended when:

(a) The household is financially unable to pay.

(b) There is a little likelihood that the household will pay the claim.

(c) The household cannot be located or;

(d) The cost of further collection action is likely to exceed the amount that can be recovered.

(8) The department shall terminate collection action if the claim has been held in suspense for three years. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-835, filed 3/1/79.]

**WAC 388-54-840 Claims against households--Fraud.** (1) A claim shall be handled as a fraud claim only if the household member has been found guilty of fraud by an administrative fraud hearing or a court of appropriate jurisdiction. Prior to the determination of

fraud, the claim against the household shall be handled as a nonfraud claim.

(2) The amount of the fraud claim shall be calculated back to the month the fraudulent act occurred.

(a) In case of fraud due to failure to report a change in circumstances, the first month benefits were overissued shall be the month the change occurred.

(3) Collection of a fraud claim shall be initiated unless the household has repaid the overissuance as a result of nonfraud demand letters, or the household cannot be located or the legal representatives prosecuting a member of the household for fraud advise in writing that collection action will prejudice the case.

(a) The department shall send the household a written demand letter which informs the household the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim and the household's right to a fair hearing.

(i) Because the time period covered is different in fraud and nonfraud claims, a fraud demand letter shall be sent even though a nonfraud letter was previously sent.

(b) If the household does not respond to the first demand letter, additional letters shall be sent at 30 day intervals until the household agrees to pay, or the claim can be suspended or terminated.

(c) The department shall not disqualify a household solely because the household refuses to pay the fraud claim.

(4) The department shall suspend collection action if it has sent at least one demand letter of less than \$100, two demand letters of between \$100 and \$400 and three demand letters of more than \$400 provided one of the following criteria is met:

(a) The household is financially unable to pay the claim;

(b) There is little likelihood that the state can collect or enforce collection of any significant sum from the household.

(c) The household cannot be located.

(d) The cost of further collection action is likely to exceed the amount that can be recovered; or

(5) After the claim has been held in suspense for three years, it shall be terminated.

(6) The department shall collect fraud or nonfraud claims in one of the following ways:

(a) Lump-sum, if the household is financially able to pay the claim this way.

(b) Installments, if the household has insufficient liquid resources or is otherwise financially unable to pay in a lump sum. If the full amount of the claim cannot be liquidated in 3 years without creating a financial hardship on the household, the department shall compromise the claim by reducing it to an amount that the household can pay in 3 years.

(7) The department must inform the household in writing that its food stamp benefits cannot be denied, terminated or reduced if the sole reason is the fact that a household has either refused to sign a payment schedule

or fails to make the agreed payments. Civil action, however, may be initiated to obtain repayment. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-840, filed 3/1/79.]

**Chapter 388-55 WAC  
ASIAN REFUGEE ASSISTANCE**

WAC  
388-55-010 Indochinese refugee assistance.

**WAC 388-55-010 Indochinese refugee assistance.**

(1) Assistance shall be granted to Vietnamese, Cambodian and Laotian refugees within the provisions of Public Law 95-145, the Indochinese Refugee Assistance Program.

(2) For the purpose of the refugee assistance program a refugee is defined as a Cambodian, Vietnamese or Laotian national who has fled from and cannot return to his country due to persecution or fear of persecution because of race, religion, or political opinion. Under this definition, the following individuals shall be eligible to apply for assistance and/or services under the refugee assistance program:

(a) An individual who has parole status as indicated by an INS (Immigration and Naturalization Service) Form I-94.

(b) An individual who has voluntary departure status as indicated by Form I-94.

(c) An individual who has conditional entry status as indicated by Form I-94.

(d) An individual who was admitted to the United States with permanent resident status on or after April 8, 1975 (the date on which the president designated Vietnamese and Cambodians to be refugees under the Migration and Refugee Assistance Act), as indicated by Form I-151 or I-551.

(e) An individual who has permanent resident status as a result of adjustment of status under P.L. 95-145 as indicated by Form I-151 or I-551.

(3) Indochinese refugee assistance cases eligible for the AFDC and/or Medicaid programs shall be transferred to such programs retroactively effective as of October 1, 1977, or as of such date as the case qualified for refugee assistance, whichever is later.

(a) Refugees must meet AFDC or Medicaid eligibility criteria to be transferred.

(b) A refugee cash assistance case being transferred to AFDC shall be regarded as a recipient rather than a new applicant so that income shall be disregarded accordingly.

(4) Applications from refugees not currently receiving refugee cash and or medical assistance shall be determined for AFDC or Medicaid eligibility before determining eligibility for the refugee assistance program.

(a) If the applicant is determined not eligible for AFDC, eligibility shall then be determined under the refugee assistance program.

(b) If the applicant is determined not eligible for Medicaid, eligibility shall then be determined under the refugee assistance program.

(5) Requirements of categorical relatedness of federal assistance programs are waived for refugees under the refugee assistance program.

(6) Refugees terminated from the AFDC program because of refusal to comply with requirements, shall not be eligible for IRAP assistance.

(7) 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. No resources which are not available, including property remaining in Vietnam, Laos or Cambodia, shall be considered in determining eligibility for financial assistance.

(8) 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.

(9) (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 sixteen, or who is under age twenty-one and is attending school or training full time, or who is age twenty-one or over and is attending school or training as approved by the department;

(ii) A person who is ill, incapacitated, or over sixty-five;

(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.

(10) Refusal of an employable adult refugee to register with the employment service without good cause shall result in the following actions. In addition, refusal to accept, continue or participate in a training or employment opportunity or referral, from any source, which is determined appropriate for that refugee by the CSO shall also result in the following actions:

(a) The ESSO will provide counseling within seven 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 thirty days after the date of his original refusal. The refugee shall be given at least ten 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, provided that the provisions for safeguarding information in chapter 388-48 WAC are met.

(iv) A decision by the refugee to accept employment or training, made at any time within the thirty-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 thirty days after the termination of assistance because of refusal to accept or continue employment or training.

(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 sixty-five 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 (11)(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 of the six 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 of the six 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. [Statutory Authority: RCW 43-.20A.550. 79-02-025 (Order 1367), § 388-55-010, filed 1/17/79, effective 3/1/79; 78-04-037 (Order 1283), § 388-55-010, filed 3/20/78; 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

388-57-015	Utilization of employment security department DES--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.
388-57-056	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/E&T 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.

**WAC 388-57-015 Utilization of employment security department DES--Registration.** (1) An employable applicant/recipient of general assistance shall be currently registered for employment with DES prior to granting of assistance.

(2) An AFDC-E parent or stepparent who qualifies the assistance unit for the program shall be registered for employment as specified in WAC 388-24-135(5).

(3) An AFDC-R mandatory registrant, WAC 388-24-107, shall be registered for WIN with DES through the CSO at the time of granting of assistance. This requirement shall not affect the eligibility of the children



for AFDC-R. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-015, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-015, filed 2/15/79; 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 as determined by the CSO based on work history and availability for employment, shall apply for unemployment compensation unless he/she furnishes written verification that he/she 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) The spouse of the AFDC-E applicant/recipient who is potentially eligible for unemployment compensation is required to comply with the provisions of subsections (1) and (2). [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-020, filed 10/23/79; 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 applies to all AFDC-E applicants/recipients who are not certified to the WIN program. It does not apply to AFDC-R applicants/recipients.

(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, or ordered to return to former employment under a Taft-Hartley injunction, by an employable applicant or recipient shall make the person and other members of that assistance unit ineligible for public assistance for at least thirty days, or until that person accepts available employment, whichever is the lesser period. If at the end of the thirty 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) of this section. Subsection (4) of this section does not apply when a person with limited skills and abilities is working to the best of his/her ability.

(5) Written notification by the DES that it placed an individual in employment shall constitute verification of a job offer. The DES refers a person to a job only when the wage paid is not less than the prevailing community rate.

(6) If the DES 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/her,

(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 a labor dispute,

(f) Adequate child care is not available to the single parent AFDC household,

(i) the recipient has the right to choose the type of child care from those available,

(ii) when only one type of child care is available, the available type must be accepted by the recipient. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-025, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-025, filed 2/15/79. 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 CSO must make a decision approving or disapproving a vocational training plan when an applicant or recipient requests child care or other supplemental payments.

(a) CSO approval is required for any vocational training plan which makes it necessary for the responsible relative to reside apart from his/her family if the responsible relative requests assistance to meet his/her needs while in training.

(3) Deleted.

(4) The CSO 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 CSO shall not authorize child care or other supplemental payments for an applicant or recipient when a training plan has been disapproved. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-028, filed 10/23/79; 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 the AFDC-E applicant or recipient parent or stepparent who qualifies the family for AFDC-E 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/E&T 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 who qualifies the assistance unit for AFDC-E and is within his competence to perform shall make him/her and other members of the assistance unit ineligible for public assistance for at least thirty days or until he/she 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. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-030, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-030, filed 2/15/79; 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 388-57-056 Refusal to cooperate in appraisal prior to certification.** A WIN registrant, unless 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 DES. An E&T registrant, unless 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 E&T by the CSO.

(1) If the de-registered recipient is the parent who qualified the assistance unit for AFDC-E, the entire assistance unit shall be terminated unless the other parent can qualify the family for AFDC-E (see WAC 388-24-135).

(a) Once a parent who first qualifies the assistance unit for AFDC-E is de-registered, a sanction period is established in accordance with WAC 388-57-061. This person's needs shall be reinstated in the grant after the sanction period is completed or earlier if exempt status is acquired;

(b) The other parent who becomes the qualifying parent must satisfy all eligibility criteria for the AFDC-E program.

(2) Any other de-registered recipient shall be removed from the AFDC grant for failure to participate. This person's needs shall be reinstated in the grant after the sanction period is completed or earlier if exempt status is acquired. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-056, filed 10/23/79; 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 unemployed parent who qualifies the family for AFDC-E must be certified to WIN/E&T 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. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-057, filed 10/23/79; 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/E&T without good cause.**(1) This section does not apply to a voluntary WIN/E&T registrant who discontinues participation in the program.

(2) If and for so long as an individual certified to the WIN/E&T program has been determined by DES/DSHS to have refused without good cause to participate in the WIN/E&T program or to accept a bona fide offer of employment in which he/she is able to engage:

(a) If such individual is the unemployed parent who qualifies the assistance unit for the AFDC-E program, assistance for the entire assistance unit shall be terminated, unless the other parent can qualify the remaining members of the assistance unit for AFDC-E;

(b) If such individual is a caretaker relative other than the qualifying parent receiving AFDC-E, his/her needs shall not be taken into account in determining the family's need for assistance;

(c) If such individual is a caretaker relative receiving AFDC-R, his/her needs shall not be taken into account in determining the family's need for assistance. Assistance in the form of protective or vendor payments will be provided to WIN-related registrants only;

(d) If such individual is the only dependent child in the family, assistance for the family will be terminated; and

(e) If such individual is one of several dependent children in the family, assistance for such child will be terminated and his/her needs will not be taken into account in determining the family's need for assistance.

(3) The specified sanctions in subsection (2) of this section shall not be applied during the period of sixty 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/her and his/her 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 WIN/E&T program refuses to accept employment offered to him/her 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 DES/DSHS and will be binding on the department.

(5) In the event an individual certified to DES/DSHS E&T should need to be referred back to the CSO as having good cause for not continuing on a training plan or job, the CSO should promptly restore the assistance payment to the individual if otherwise eligible or make other necessary payment adjustments. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-061, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-061, filed 2/15/79; 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 sixty days to a mandatory registrant who is certified to the WIN program and determined by DES to have refused training or employment under the WIN program without good cause for the purpose of persuading such individual to accept appropriate training or employment.

(2) The sixty-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 DES from a notice of proposed termination from the WIN 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 WIN program activity without good cause.

(c) Counseling may be terminated during the sixty-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 sixty-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 DES to have refused training or employment under the WIN program without good cause, the department shall not provide another period of counseling. [Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-062, filed 2/15/79; 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 the sanction period set by DES has elapsed since deregistration and the individual has given evidence to DES of willingness to participate.

(2) 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.

(3) Reacceptance may also be denied where DES determines that the individual's sixty-day counseling was not successful and that readmission would be disruptive to the orderly administration of the activity. [Statutory Authority: RCW 74.22.110, 79-10-082 (Order 1433), § 388-57-064, filed 9/21/79; 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.]

#### 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.
388-59-030	State supplementary payments—Establishing eligibility.
388-59-040	State supplementary payments—Amount.
388-59-045	Separation of income and resources.
388-59-048	Termination of optional state supplement.
388-59-050	State supplementary payments—Additional requirements under specified circumstances—Chore services.
388-59-060	State supplementary payments—Overpayment and underpayment.
388-59-090	Mandatory state supplementary payments—Termination of eligibility.

**WAC 388-59-010 State supplementary payments—Definitions.** (1) "Supplemental security income (SSI) program" 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 subsequent amendments, and administered by the social security administration (SSA).

(2) "Supplementary payment" means the state money payment 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 state money payment 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 elected state money payment 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. (See WAC 388-59-045).

(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. (See WAC 388-59-045).

(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, were converted to SSI and state supplementary payments effective January 1, 1974.

(12) "Ineligible spouse" means the husband or wife of an eligible individual who is either not aged, blind or disabled or although aged, blind or disabled has not applied for SSI.

(13) "Living alone" designates an individual or couple who live in their own home or in one of the following alternate care situations: Congregate care, adult family home, foster family group home, or DD group home.

(14) "Living in household of another" designates an individual or couple who do not pay a pro rata share of the household expenses based on fair market value or when both board and room are supplied. [Statutory Authority: RCW 74.08.090, 79-04-036 (Order 1379), § 388-59-010, filed 3/22/79; 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, as promptly as is feasible, deductions against supplementary payments or mandatory minimum supplements, if any are validly prescribed by the state, on eligible individuals or eligible spouses for failure to comply with reporting requirements established by SSA.

(6) SSA shall make determinations of eligibility for Title XIX medical assistance for eligible individuals and eligible spouses as part of the determination of eligibility for SSI and state supplementary payments.

(a) Essential spouse remains eligible for Title XIX medical as long as their "grandfathered" essential spouse status does not cease.

(b) Ineligible spouses requesting medical assistance must make a separate application to the department. [Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-020, filed 3/22/79; 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, or would be, eligible to receive supplementary payments may waive the right by making a written request for waiver to SSA.

(a) When an ineligible spouse and an eligible individual have minor children eligible for AFDC, the ineligible spouse may choose to waive the state supplement and receive AFDC as part of the child's assistance unit.

(b) Any individual or his/her spouse who waives supplementary payments for oneself or his/her ineligible spouse shall not receive state-funded general assistance in lieu of the supplementary payments.

(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. [Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-030, filed 3/22/79; 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 the following type of living arrangement.

(a) Living alone as an individual, as a couple with eligible individual and eligible spouse or essential person,

or as a couple with eligible individual and ineligible spouse.

(b) Living in household of another as an individual, as a couple with eligible individual and eligible spouse or essential person, or as a couple with eligible individual and ineligible spouse.

(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.

(5) No optional state supplement will be paid:

(a) To any individual or couple residing in a public institution;

(b) To any individual or couple residing in a Title XIX facility;

(c) To grandfathered cases which consist of:

(i) An eligible individual and more than one essential person;

(ii) An eligible individual, eligible spouse and one or more essential persons. [Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-040, filed 3/22/79; Order 910, § 388-59-040, filed 3/1/74.]

**WAC 388-59-045 Separation of income and resources.** (1) Income and resources are considered available to meet need of both husband and wife except when spouses are separated.

(a) When determining eligibility and benefit amounts for an aged, blind, or disabled individual and a spouse who is neither aged, blind or disabled or who has not applied, separation occurs after the husband and wife have lived apart for one month.

(b) When determining eligibility and benefit amounts for an aged blind or disabled individual and an aged, blind or disabled applying spouse, separation occurs after the husband and wife have lived apart for six months, except that for determining benefit amounts when either spouse resides in a Title XIX facility throughout a calendar month, separation occurs with the first month.

(2) The income and resources of a parent are considered available to meet the needs of a disabled child under age eighteen and any disabled students under age twenty-one only when:

(a) The child lives in the same household as the parent; and

(b) The amount of the parent's income available to the disabled child has first been reduced by all allowable earned or unearned income disregards and allocated to meet the needs, as established by SSA, of all ineligible family members residing in the same household.

(3) The income and resources of a parent are not considered available to meet the needs of a disabled student who is age twenty-one through twenty-two; such a person may still be considered a "child" for other SSI purposes only. [Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-045, filed 3/22/79.]

**WAC 388-59-048 Termination of optional state supplement.** The optional supplement shall be terminated:

(1) Beginning the first month after the month the individual dies.

(2) The first month after the month in which the individual ceases to meet the categorical eligibility requirements of aged, blind or disabled.

(3) When the individual ceases to reside in Washington state.

(4) When the individual fails to apply for and, if eligible, obtain benefits or accept vocational services as specified by SSA.

(5) When the individual's disability is based on alcoholism or drug addiction and he/she is not undergoing treatment required by SSA.

(6) When the individual has resided throughout a calendar month in a public institution or a Title XIX facility. [Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-048, filed 3/22/79.]

**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 388-29-150 through 388-29-270 to recipients of state supplementary payments.

(2) Recipients of SSI and/or state supplementary payments are eligible for chore services as provided in WAC 388-15-210 through 388-15-212. [Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-050, filed 3/22/79; 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, SSA will make adjustments 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. The department shall not compensate SSI beneficiaries for

reductions of their income caused by such recoupment procedures.

(3) Upon determination that an underpayment of state supplementary payments is due and payable, the underpaid amount shall be paid to the underpaid claimant by SSA.

(4) If the underpaid person dies before receiving the underpaid amount of state supplementary payment, the underpaid amount shall be paid by SSA to the claimant's eligible spouse. If the deceased claimant has no eligible spouse, no payment of the underpaid amount shall be made. [Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-060, filed 3/22/79; Order 910, § 388-59-060, 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.

(4) The first month after the month in which the individual ceases to reside in Washington state. [Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-090, filed 3/22/79; Order 910, § 388-59-090, filed 3/1/74.]

## Chapter 388-63 WAC

### FAMILY HOME FOR RETARDED ADULTS

WAC

388-63-005 through 388-63-125 Repealed.

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

388-63-005 Family home for adults—Definitions and exceptions. [Order 1159, § 388-63-005, filed 10/6/76; Order 752, § 388-63-005, filed 12/14/72.] Repealed by 78-



- 10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-010 Capacity of home—Limitations on ages and numbers. [Order 1159, § 388-63-010, filed 10/6/76; Order 752, § 388-63-010, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-015 Application for license. [Order 1159, § 388-63-015, filed 10/6/76; Order 752, § 388-63-015, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-020 Duration and provisions of license. [Order 1159, § 388-63-020, filed 10/6/76; Order 752, § 388-63-020, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-025 Family home for retarded adults—Periodic visits—Consultation. [Order 752, § 388-63-025, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-030 Family home for retarded adults—Administrative hearing. [Order 752, § 388-63-030, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-035 Family home for retarded adults—Register. [Order 752, § 388-63-035, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-040 Family home for retarded adults—Reporting illness, injuries and death. [Order 752, § 388-63-040, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-045 Family home for retarded adults—First aid—Medical care. [Order 752, § 388-63-045, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-050 Family home for retarded adults—Characteristics of family. [Order 1159, § 388-63-050, filed 10/6/76; Order 752, § 388-63-050, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-055 Family home for retarded adults—Discipline. [Order 752, § 388-63-055, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-060 Family home for retarded adults—Physical aspects of home. [Order 752, § 388-63-060, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-065 Family home for retarded adults—Other requirements in providing care. [Order 1159, § 388-63-065, filed 10/6/76; Order 752, § 388-63-065, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-070 Family home for retarded adults—Discrimination prohibited. [Order 752, § 388-63-070, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-110 Adult family home—Placement—Care defined. [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.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-120 Determination of need for care and placement. [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.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-125 Exceptions to rules. [Order 1159, § 388-63-125, filed 10/6/76.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

**WAC 388-63-005 through 388-63-125 Repealed.**  
See Disposition Table at beginning of this chapter.

**Chapter 388-70 WAC**

**CHILD WELFARE SERVICES--FOSTER CARE--  
ADOPTION SERVICES--SERVICES TO  
UNMARRIED PARENTS**

**WAC**

- 388-70-010 Foster care—Legal basis.
- 388-70-012 Foster care—Definitions.
- 388-70-013 Authorization for foster care placement.
- 388-70-014 Repealed.
- 388-70-016 Repealed.
- 388-70-017 Repealed.
- 388-70-019 Repealed.
- 388-70-022 Payment of foster care.
- 388-70-024 Payment of foster care—Effective date.
- 388-70-042 Payment standards—Regular foster family care.
- 388-70-044 Payment standards—Receiving home care—Standards for using.
- 388-70-047 Emergency foster care assistance.
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- 388-70-049 Repealed.
- 388-70-051 Education related foster care.
- 388-70-054 Temporary absence of child from foster care.
- 388-70-056 Transportation and other expenses—Reimbursement.
- 388-70-066 Foster care out-of-state—Authorization—Payment.
- 388-70-110 Repealed.
- 388-70-111 Repealed.
- 388-70-112 Repealed.
- 388-70-114 Repealed.
- 388-70-116 Repealed.
- 388-70-118 Repealed.
- 388-70-160 Guardianship of estate of child.
- 388-70-201 Repealed.
- 388-70-211 Repealed.
- 388-70-221 Repealed.
- 388-70-230 Repealed.
- 388-70-235 Repealed.
- 388-70-240 Repealed.
- 388-70-245 Repealed.
- 388-70-250 Repealed.
- 388-70-255 Repealed.
- 388-70-260 Repealed.
- 388-70-270 Repealed.
- 388-70-275 Repealed.
- 388-70-280 Repealed.
- 388-70-320 Repealed.
- 388-70-700 Juvenile records.

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

- 388-70-014 Eligibility for foster care—Need. [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.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-016 Placement of child in foster care. [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.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-017 Rights of natural parents of child. [Order 1123, § 388-70-017, filed 6/7/76; Order 913, § 388-70-017, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-019 Responsibility of foster parents. [Order 913, § 388-70-019, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-049 Payment standards—Foster care in boarding school. [Order 913, § 388-70-049, filed 3/1/74.] Repealed



- by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-110 Services to unmarried parents. [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.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-111 Services to unmarried parents—Duration of service. [Order 689, § 388-70-111, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-112 Services to unmarried parents—Persons eligible. [Order 1020, § 388-70-112, filed 4/29/75; Order 689, § 388-70-112, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-114 Services to unmarried parents—Payment. [Order 689, § 388-70-114, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-116 Services to unmarried parents—Parents' responsibility. [Order 689, § 388-70-116, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-118 Services to unmarried parents—Services available. [Order 689, § 388-70-118, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-201 DSHS—Private child caring agency relationships—Legal basis. [Order 1123, § 388-70-201, filed 6/7/76.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-211 DSHS—Private child caring agency relationships—General terms. [Order 1123, § 388-70-211, filed 6/7/76.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-221 Responsibilities of private child caring agencies and DSHS for placement and care. [Order 1123, § 388-70-221, filed 6/7/76.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-230 Child care agency, institution, or maternity home—Setting rates of payment. [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.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-235 Required reports—Content—Penalty for late reporting. [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.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-240 Computation of per capita expenditures. [Regulation 70.232, filed 12/24/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-245 Nonprofit institution and maternity home—Rate setting—Exclusions. [Order 855, § 388-70-245, filed 9/13/73; Regulation 70.233, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-250 Nonprofit agency—Commercial operations. [Regulation 70.234, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-255 Voluntary agency licensed foster family care—Rate setting. [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.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-260 New agency—Rate negotiated. [Regulation 70.236, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-270 Proprietary agency—Rate setting. [Regulation 70.237, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-275 Nonsubmission of reports—Late reporting—Penalties. [Regulation 70.238, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-280 Vouchering payment. [Order 1132, § 388-70-280, filed 7/8/76; Regulation 70.239, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-320 Use of resources other than state department of public assistance medical program. [Regulation 70.240, filed 9/26/63.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

**WAC 388-70-010 Foster care—Legal basis.** (1) The department is authorized by RCW 74.13.020 to provide foster care.

(2) Foster care payments are vendor payments of public assistance funds. See WAC 388-22-030(72). [Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-70-010, filed 9/1/78; 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. Foster care may be provided in either a licensed foster family home or group care facility.

(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. [Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-70-012, filed 9/1/78; 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.** A child may be placed in foster care only under the following circumstances:

(1) The child has been placed in temporary residential care after having been taken into custody pursuant to chapter 13.30 RCW, Runaway Youth Act. A child shall in no event remain in temporary residential care for more than seventy-two hours from the time of initial contact with the law enforcement officer, except as otherwise provided in this section.

(2) A petition, by child, parent(s), or the department requesting alternative residential placement for the child has been filed pursuant to section 26 or 28, chapter 155, Laws of 1979 or approved pursuant to section 31, chapter 155, Laws of 1979 or upon a child having been admitted directly by section 23(1)(b), chapter 155, Laws of 1979.

(3) A child has been placed in shelter care as provided below:

(a) The child has been taken into custody, and placed in shelter care when there is probable cause to believe, pursuant to RCW 26.44.050, that the child is abused or neglected and the child would be injured or could not be taken into custody as provided in RCW 13.34.050.

(b) A petition has been filed with the juvenile court alleging the child is dependent; that the child's health, safety and welfare will be seriously endangered if not taken into custody and the juvenile court enters an order placing the child in shelter care. See RCW 13.34.050 and 13.34.060.

(c) No child shall be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody, unless a court order has been entered for continued shelter care.

(d) No child shall be detained for longer than thirty days without a court order, authorizing continued shelter care.

(4) A juvenile court has determined a child is dependent and the court's order of disposition issued pursuant to RCW 13.34.130 removes the child from his or her home.

(5) A juvenile court has terminated the parent and child relationship pursuant to chapter 13.34 RCW, and placed the custody of the child with the department or a licensed child placing agency.

(6) The child and his or her parent(s) agree to the arrangement and/or continuation of alternative residential placement pursuant to RCW 74.13.031, as evidenced by a written consent to placement.

(7) When otherwise authorized by court order.

(8) The child's parent(s) or legal guardian(s) has requested, on forms prescribed by the department, the placement of the child by the department or a licensed child placement agency into foster care. Such requests shall comply with foster care placement criteria as developed by the department. (See WAC 388-70-016(5)) [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-70-013, filed 9/10/79. Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-70-013, filed 9/1/78; Order 1186, §

388-70-013, filed 2/3/77; Order 1123, § 388-70-013, filed 6/7/76.]

**WAC 388-70-014 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-016 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-017 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-019 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-022 Payment of foster care.** (1) Payment is made for foster care upon:

(a) Documentation of the need for the type and level 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.

(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) Authorization of payment is the responsibility of social services. 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.

(5) Foster care payments may be made to persons granted guardianship according to section 51, chapter 155, Laws of 1979. [Statutory Authority: RCW 72.01-.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-70-022, filed 9/10/79. Statutory Authority: RCW 74-.08.090. 79-04-062 (Order 1384), § 388-70-022, filed 3/28/79; 78-09-098 (Order 1335), § 388-70-022, filed 9/1/78; 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. [Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-70-024, filed 9/1/78; 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 388-70-042 Payment standards--Regular foster family care.** Effective July 1, 1979, foster care payment standards shall be as follows:

(1) The board payment for foster care of a child in a family foster home is one hundred and seven dollars per month for a child less than six years of age, one hundred and thirty-nine dollars per month for children six through eleven years of age and one hundred and sixty-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 seventeen dollars and sixty-eight cents per month for personal incidentals including school supplies. A monthly clothing allowance of fourteen dollars and eighty-two cents is paid for children under twelve years, while seventeen dollars and sixty-seven cents is paid for children twelve years and older.

(3) An initial clothing allowance for children placed in foster care is provided to supplement a child's clothing supply, where necessary, at the time a child is placed in foster care. This allowance may not exceed one hundred dollars unless otherwise authorized by a regional office. [Statutory Authority: RCW 74.08.090. 79-11-085 (Order 1445), § 388-70-042, filed 10/24/79; 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 CSO 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 CSO administrator or to the regional director when more than one CSO administrator is involved.

(b) All receiving homes shall be licensed as foster family homes.

(c) Receiving homes are developed to provide care up to thirty 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.

(4) Every six months the CSO 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 twenty-six dollars and seventy-five cents 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 nine dollars and thirty 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 nine dollars and thirty 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 director. 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 CSO administrator, be used to provide interim care for children and youths requiring care in a group setting. Unless otherwise contracted group care facilities shall be paid for providing interim care at their established daily rate. [Statutory Authority: RCW 74.08.090. 79-11-085 (Order 1445), § 388-70-044, filed 10/24/79; 78-09-098 (Order 1335), § 388-70-044, filed 9/1/78; 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 is limited to a maximum of 30 consecutive days in any 12 month period. [Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-047, filed 9/1/78; Order 1052, § 388-70-047, filed 9/10/75.]

**WAC 388-70-048 Payment standards--Specialized foster family care--Child with special needs.** In addition to the basic rate for regular foster family home care specified in this chapter, an additional amount may be paid for the specialized care of a child with special needs as determined by the department. The additional amounts are:

- |  |                    |
|--|--------------------|
| (1) Children with behavior problems              | \$112.00 per month |
| (2) Intellectual/physically handicapped children | \$112.00 per month |
| (3) Emotionally handicapped children             | \$112.00 per month |

[Statutory Authority: RCW 74.08.090, 79-11-085 (Order 1445), § 388-70-048, filed 10/24/79; 78-09-098 (Order 1335), § 388-70-048, filed 9/1/78; 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 Repealed.** See Disposition Table at beginning of this chapter.

**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 not educational. [Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-051, filed 9/1/78; 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 number of days absent will be paid by the department, provided:

(a) The number of consecutive days of absence does not exceed fifteen within a thirty-day period;

(b) Written notification is provided to the responsible CSO three days in advance of planned visits exceeding seventy-two hours;

(c) The planned visits of less than seventy-two hours are reported to the responsible CSO in the child's quarterly progress report prepared by the private agency;

(d) The responsible CSO is notified on the next working day following the child's unplanned absence (notification may be made by a telephone call to the CSO

followed by written notification within five working days from the facility);

(e) A licensed vacant bed is held for the child;

(f) The child will be accepted back by the facility; and

(g) The CSO is notified of date of child's return.

(2) Written verification to the absent child's responsible CSO will contain the following information:

(a) Planned visits;

(i) Child's name

(ii) Where the child will visit

(iii) Beginning and ending dates of the absence

(iv) A statement as to whether or not the child's unoccupied bed is being held for the child's return to the facility.

(b) Unplanned absences;

(i) Child's name, age, and home address

(ii) Time and date the child left the premises

(iii) A statement as to whether the child is acceptable back by the facility

(iv) A statement as to whether or not the child's unoccupied bed will be held for the child's return to the facility.

(3) In respect to absences from foster homes supervised by voluntary child placing agencies the preceding procedures will apply.

(4) When there is a planned temporary absence from a child foster family home supervised by a CSO, the service worker will be involved in the plan. In the case of an unplanned absence, the foster parents will notify the service worker orally, as soon as is practical, of the child's name, time and date that the child left the premises and whether or not the child's unoccupied bed will be held.

(5) In addition to the preceding requirements, the following limitations are placed on the payments for temporary absences of children from a children's group foster care facility and/or a child foster family home:

(a) A child's cumulative total of forty-five days absence within a six-month period is the maximum allowable for payment.

(b) With adequate justification of unusual circumstances, an exception to policy may be submitted for consideration of extension of the consecutive fifteen days and the accumulative forty-five days limitation. [Statutory Authority: RCW 74.08.090, 79-11-105 (Order 1449), § 388-70-054, filed 10/31/79; 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 subject to court order 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 subject to court order and in the custody of the department or a private agency 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. [Statutory Authority: RCW 74.08-090, 78-09-098 (Order 1335), § 388-70-056, filed 9/1/78; 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 388-70-066 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 subject to court order, 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. [Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-066, filed 9/1/78; Order 913, § 388-70-066, filed 3/1/74.]

**WAC 388-70-110 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-111 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-112 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-114 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-116 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-118 Repealed.** See Disposition Table at beginning of this chapter.

**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 subject to court order 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. [Statutory

Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-160, filed 9/1/78; 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 388-70-201 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-211 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-221 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-230 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-235 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-240 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-245 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-250 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-255 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-260 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-270 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-275 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-280 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-320 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-70-700 Juvenile records.** (1) Except as otherwise provided by law the department shall comply with the requirements of RCW 13.04.270 through 13.04.276 as amended by chapter 155, Laws of 1979 regarding the confidentiality, sealing, accuracy, release to public, inquiry and challenge, transfer and destruction of juvenile custody and child care records. This section applies to entries in records or records created after July 1, 1978 in which a juvenile court action other than a juvenile offender has been initiated.

(2) A juvenile, his or her parents or attorney, may upon written request, inquire to the department as to the existence and content of custody or care records. The

inquiry shall provide the name of the juvenile, the approximate date the juvenile was in contact with the department, the nature of the contact, the location of the contact, and the purpose of the request.

(3) The department will make written response to the inquiry within twenty-one calendar days after receipt. The department will give priority to, and expedite processing, inquiries which involve pending litigation. The department shall provide to the juvenile, his or her parents or attorney making the inquiry, information regarding the location, nature and content of any records in the department's possession except:

(a) If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his or her parents the agency may withhold the information subject to the order of the court: *Provided*, That if the court determines that limited release of the information is appropriate the court may specify terms and conditions for release of the information; or

(b) If the information or record has been by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric or medical services for the juvenile and the juvenile has a legal right to receive these services without the consent of any person or agency then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile.

(4) A juvenile, his or her parents or attorney, who wishes to challenge the information contained in the department records shall notify the department in writing. The notification shall provide:

(a) The name of the juvenile;

(b) If the records are alleged to be inaccurate; a statement of those portions alleged to be inaccurate; and

(c) If the continued possession of the record is being challenged, a statement as to the reason why the record should be destroyed.

(5) The department will review the notification of challenge to the record and make a written response within thirty calendar days. The response shall indicate the corrections which have been or will be made and indicate the basis for denial of any requested corrections. If appropriate, the department's response will also include a statement indicating whether the records have been destroyed or transferred to another juvenile justice or child care agency. [Statutory Authority: RCW 72.01.240 and 1979 c 155, 79-10-026 (Order 1431), § 388-70-700, filed 9/10/79. Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-700, filed 9/1/78.]

### Chapter 388-73 WAC

#### CHILD CARE AGENCIES--ADULT FAMILY HOMES MINIMUM LICENSING REQUIREMENTS

##### WAC

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**WAC 388-73-010 Authority.** The following rules are adopted pursuant to chapter 74.15 RCW, RCW 74.08.044 and chapter 155, Laws of 1979. Unless otherwise provided these rules shall apply to all categories of agencies. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-010, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-010, filed 9/8/78.]

**WAC 388-73-012 Definitions.** (1) Those terms defined in chapter 74.15 RCW shall have the same meanings when used in this chapter except as otherwise provided herein.

(2) "A developmentally disabled adult" is an individual eighteen years of age or over who suffers from a



mental deficiency which renders him or her incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support and social participation.

(3) An "adult in need of protection" is an individual age eighteen or over who because of age, frailty, physical disability, mental confusion or disturbance, requires a degree of supervision, personal and social care.

(4) "Premises" means the buildings in which the facility is located and the adjoining grounds over which the operator of the facility has direct control.

(5) "Full-time care provider" or "full-time care facility" means a family home for adults, foster family home for children or expectant mothers, group care facility, maternity home, crisis residential center, and juvenile detention facility.

(6) "School-age child" means a child six years of age or older or otherwise eligible for admission to the first grade of a public school.

(7) "Sponsor(s)" means person(s) providing, or intending to provide, family home care to developmentally disabled adults or adults in need of protection.

(8) "Capacity" means the maximum number of persons who may be under care at a given moment in time.

(9) "Infant" means a child under one year of age.

(10) "Drop-in care" means unscheduled day care on a one-time only or irregular basis.

(11) "Child," "youth" and "juvenile" mean any individual who is under the chronological age of eighteen years.

(12) "Semisecure facility" means any facility, including but not limited to crisis residential centers or specialized foster homes, operated in a manner to reasonably assure that youth placed there will not run away: *Provided*, That such facility shall not be a secure institution or facility as defined by the federal Juvenile Justice and Prevention Act of 1974 and regulations and clarifying instructions promulgated thereunder. A child shall not be locked in the facility nor any part thereof nor otherwise controlled by the use of physical restraints except as provided in WAC 388-73-048.

(13) "Secure detention facility" and "juvenile detention facility" mean a facility, primarily for the care of juvenile offenders, which is operated so as to ensure that all entrances and exits from the facility are locked, barred or otherwise controlled so as to prevent escapes. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-012, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-012, filed 9/8/78.]

**WAC 388-73-014 Persons and organizations subject to licensing.** Persons and organizations operating the following types of facilities are subject to licensing under chapter 74.15 RCW and RCW 74.08.044:

(1) "Group care facility" means an agency which is maintained and operated for the care of a group of children on a twenty-four hour basis.

(2) "Child placing agency" means an agency which places children for temporary care, continued care, or for adoption.

(3) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers regardless of age, before or during confinement, or which provides care as needed to mothers and their infants after confinement. See WAC 388-73-702.

(4) "Day care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours. Separate requirements are adopted for the following subcategories of day care centers:

(a) A day care center provides for the care of thirteen 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 day care program" means:

(i) A day care center for the care of twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care and supervision the child is placed; or

(ii) For the care of from seven through twelve 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 twenty-four hour day for a group of persons under the age of eighteen 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.

(5) "Foster family home" means a person(s) who regularly provide(s) care during all or any part of the twenty-four hour day to one or more children, expectant mothers, developmentally disabled adults or other adults in need of protection in the family abode of the person or persons under whose direct care and supervision the child, expectant mother or adult is placed. Separate requirements are adopted for the following subcategories of foster family homes:

(a) A family home for adults means a home which regularly provides care on a twenty-four hour basis for up to four developmentally disabled adults; or up to four adults in need of protection who are recipients of financial assistance or Title XX services.

(b) A foster family home for children or expectant mothers means a home which regularly provides care on a twenty-four hour basis to one or more, but not more than four foster children under the age of eighteen years or to not more than three expectant mothers.

(c) A family day care home means a home which regularly provides care during part of the twenty-four hour day to six or fewer children.

(6) "Crisis residential center" means an agency which is operated under contract with the department to provide temporary, protective care to children in a semisecure residential facility in the performance of duties specified and in the manner provided in sections 15 through 34 and 78 through 82, chapter 155, Laws of

1979. Separate requirements are adopted for the following subcategories of crisis residential centers:

(a) A regional crisis residential center, which is a structured group care facility whose primary and exclusive functions are those of a crisis residential center.

(b) A group care facility a portion of which functions as a crisis residential center.

(c) Foster family home which functions either partially or exclusively as a crisis residential center and has been designated as a crisis residential center by the department. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-014, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-014, filed 9/8/78.]

**WAC 388-73-016 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. Waivers shall be in writing and a copy of the waiver maintained by the licensee. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-016, filed 9/8/78.]

**WAC 388-73-018 Persons and organizations not subject to licensing.** In addition to those persons and organizations which are exempt from the requirements of this chapter as provided in chapter 74.15 RCW, the following persons and organizations are not required to be licensed:

(1) Persons caring for a child in the child's own home whether related to the child or not.

(2) 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 a preplacement report is on file and has been approved by the court.

(3) An agency operated by any unit of local, state or federal government or by a tribal council operating an agency on a federally recognized Indian reservation.

(4) An agency located on a federal military reservation, except upon the invitation of the military authorities. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-018, filed 9/8/78.]

**WAC 388-73-019 Effect of local ordinances.** 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-019, filed 9/8/78.]

**WAC 388-73-020 Certification of juvenile detention facility and exempt agency.** (1) An agency legally exempt from licensing may not be licensed. However, at its request, such agency may be certified 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. In such cases, unless otherwise clearly evident from the text, requirements and procedures for licensing apply equally to certification.

(2) An agency may not receive funds from the department unless it is licensed or certified. Licensing per se does not obligate the department to make referrals or payment to an agency; additional requirements may be imposed for such purposes.

(3) Juvenile detention facilities operated by juvenile courts, shall be certified in accord with the provision of section 80, chapter 155, Laws of 1979, and requirements promulgated pursuant thereto. Except as otherwise indicated by the text, the requirements for licensing group care facilities also apply to the certification of juvenile detention facilities. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-020, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-020, filed 9/8/78.]

**WAC 388-73-022 Application for license or certification--Investigation.** (1) Persons or organizations applying for a license or for certification under this chapter shall do so on forms and comply with procedures prescribed by the department. The application shall be made by and in the name of the person(s) or legal entity which shall be responsible for the operation of the facility.

(2) The department may require such additional information from individual applicants as it deems necessary. The department may perform such corollary investigations of applicants, licensees, their staff and members of their households as it deems necessary, including accessing of criminal histories and law enforcement files. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-022, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-022, filed 9/8/78.]

**WAC 388-73-024 Licenses for homes supervised by licensed agency.** Foster family homes certified by a licensed child-placing agency as meeting licensing requirements for foster family homes shall accept children only from the certifying child-placing agency. Licenses issued under this section are valid only as long as the homes remain under the supervision of the certifying licensed agency and operate in accordance with licensing requirements. This section does not apply to agencies which are certified (rather than licensed) in accordance with WAC 388-73-020. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-024, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-024, filed 9/8/78.]

**WAC 388-73-026 Licensing of employees.** The following persons are prohibited from obtaining a license under this chapter:

(1) Staff of the department or a member of his or her household, and staff of a child-placing agency or a member of his or her household, if such staff are involved directly or in an administrative or supervisory capacity in the licensing or certification process or in the placement of persons in a licensed or certified facility or in authorizing payment for such persons.

(2) These restrictions do not preclude the employment and licensing of a person whose exclusive duties for the employer are those of a foster parent. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-026, filed 9/8/78.]

**WAC 388-73-028 Limitations on licenses.** Licenses shall not be issued to an applicant for both day care and for full-time care nor for both children and adults in the same facility, except that expectant mothers and their children may receive care in the same facility. Exceptions may be made only if it is clearly evident that care of one category of client does not interfere with the quality of care to be provided to the other categories of clients. In such circumstances, the total number of clients in all categories shall not exceed the number permitted by the most stringent capacity limitation of the categories concerned. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-028, filed 9/8/78.]

**WAC 388-73-030 General qualifications of licensee, persons on the premises.** The licensee, staff and other persons on the premises shall be persons of good character. The licensee shall demonstrate that he/she, child care staff, volunteers and other persons who have access to persons under care have the understanding, ability, physical health, emotional stability and personality suited to meet the physical, mental, emotional and social needs of persons under care. The licensee, staff and other persons on the premises shall not have been convicted of child abuse and/or any crime involving physical harm to another person nor be a perpetrator of substantiated child abuse. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-030, filed 9/8/78.]

**WAC 388-73-032 Age of licensee.** Applicants for a license under this chapter shall be a least eighteen years of age. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-032, filed 9/8/78.]

**WAC 388-73-034 Posting of license.** All licensees, except for foster family homes for children, expectant mothers, developmentally disabled adults and adults in need of protection, shall post the license issued under this chapter in a conspicuous place. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-034, filed 9/8/78.]

**WAC 388-73-036 Licensure--Denial, suspension or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant and the chief executive officer, if any, to operate the agency in accordance with the law and this chapter. Such persons shall be considered separately and jointly as applicants or licensees and if any one be deemed disqualified by the department in accordance with chapter 74.15 RCW or this chapter, the license may be denied, suspended, revoked or not renewed.

(a) Any individual engaging in illegal use of drugs or excessive use of alcohol shall be disqualified.

(b) Any individual convicted of a felony or released from a prison within seven years of the date of application for the license shall be disqualified by reason of such conviction if such conviction is reasonably related to the competency of the person to exercise responsibilities for ownership, operation and/or administration of an agency; and the department determines, after investigation, that such person has not been sufficiently rehabilitated subsequent to such conviction to warrant public trust.

(c) Individuals who, in this state or elsewhere, have for cause been denied a license to operate a facility for the care of children, expectant mothers, developmentally disabled adults or adults in need of protection, or who have had a license to operate such a facility suspended or revoked shall not be granted a license: *Provided, however,* When such person demonstrates to the department and affirmatively establishes by clear, cogent and convincing evidence his or her ability to operate an agency under this chapter, the department may waive this provision and license such an individual.

(2) A license may be denied, suspended, revoked or not renewed for failure to comply with the provisions of chapter 74.15 RCW, and rules contained in this chapter. A license shall be denied, suspended, revoked or not renewed for any of the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation;

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding or abetting the abuse, neglect, exploitation or cruel or indifferent care to persons under care;

(d) Repeatedly providing insufficient personnel relative to the number and types of persons under care or allowing persons unqualified by training, experience or temperament to care for or be in contact with the persons under care;

(e) Misappropriation of the property of persons under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to persons under care;

(h) Refusal to admit authorized representatives of the department or State Fire Marshal to inspect the premises; and

(i) Refusal to permit authorized representatives of the department to have access to the records necessary for the operation of the facility or to permit them to interview agency staff and clients. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-036, filed 9/8/78.]

**WAC 388-73-038 Licensed capacity.** The number of persons for whom a facility will be licensed is dependent upon the evaluation of the physical accommodations of the facility, the numbers and skills of the licensee, staff, family members and volunteers, and the ages and characteristics of the persons to be served. No facility shall be licensed for the care of more persons than permitted by the rules regarding the category of care for which the license is sought. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-038, filed 9/8/78.]

**WAC 388-73-040 Discrimination prohibited.** The licensee shall comply with federal and state statutory and regulatory requirements regarding nondiscrimination in employment practices and client services. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-040, filed 9/8/78.]

**WAC 388-73-042 Religious activities.** The rights of persons in care to observe the tenets of their faith shall be respected and facilitated consistent with state and federal law. Persons shall not be punished for exercising these rights. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-042, filed 9/8/78.]

**WAC 388-73-044 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) When ten percent or more of an agency's caseload consists of Indian children, the agency 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.

(4) In addition to reports required by WAC 388-73-056, an agency shall report to a child's tribal council the

serious injury or death or abandonment of an enrolled Indian child.

(5) 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).

(6) When foster care or adoptive placement of a nonenrolled Indian child is planned, the Portland area office of the Bureau of Indian Affairs' form "Family Ancestry Chart," or appropriate equivalent, shall be compiled, except for such children for whom it appears that foster care will last, or does last, less than thirty days. Appropriate steps shall be taken to enroll eligible children if not contrary to the wishes of the child and/or his parent(s).

(7) 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.

(8) When ten percent or more of a child-placing agency's caseload consists of Indian children, the agency shall have a written policy and procedures statement on legal practices which shall reflect the rights of Indian children and families based upon their unique social-legal status guaranteed by treaty and federal law.

(9) 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 thirty days from the time the child is determined to be legally and otherwise ready for adoptive planning.

(b) Within an additional thirty days, a Washington Indian family; considering first a family of similar cultural background, for example, Eastern or Western Washington.

(c) Within an additional thirty 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, such as, Coastal, Plateau, Plains, Southwest, Woodland.

(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. See also (c) of this subsection. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-044, filed 9/8/78.]

**WAC 388-73-046 Discipline.** (1) Disciplinary practices shall be stated in writing. Discipline shall be a responsibility of the licensee or staff, and shall not be

prescribed or administered by persons under care. Discipline shall be based on an understanding of the individual's needs and stage of development and shall be designed to help the individual develop inner control, acceptable behavior and respect for the rights of others.

(2) Discipline shall be fair, reasonable, consistent and related to the individual's behavior. Cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline shall not be administered. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-046, filed 9/8/78.]

**WAC 388-73-048 Corporal punishment.** Corporal punishment is prohibited except that spanking with the flat of the hand on the buttocks in a manner that does not result in bruises or other physical harm is permitted when other methods of discipline are found to be ineffective. The use of such amounts of physical restraint as may be reasonable and necessary to:

(1) Protect persons on the premises from physical injury,

(2) Obtain possession of a weapon or other dangerous object,

(3) Protect property from serious damage, shall not be construed to constitute corporal punishment. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-048, filed 9/8/78.]

**WAC 388-73-050 Abuse, neglect, exploitation.** Licensees shall protect persons, while in their care, from abuse, neglect and exploitation as defined herein:

(1) Abuse

(a) Physical abuse – the person has sustained physical damage, such as bruises, lacerations, fractures or burns as a result of a nonaccidental physical act or acts.

(b) Emotional abuse – the person has sustained emotional damage as shown by his/her behavior or physical manifestations, and/or whose health and welfare is endangered as a result of treatment received in the licensed facility.

(2) Neglect

(a) Physical neglect – the person has sustained physical or material deprivation, such as not being adequately fed, clothed or bathed. Adequate medical care is lacking. The person does not receive the supervision necessary relative to his/her level of development.

(b) Emotional neglect – the person has sustained emotional damage as shown by his/her behavior or physical manifestations, or whose health and welfare is endangered by rejection, lack of love, attention, approval or security.

(3) Exploitation

The person is forced to work at unreasonable tasks and/or for unreasonable periods of time, or is sexually abused, or is forced to commit criminal acts. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-050, filed 9/8/78.]

**WAC 388-73-052 Interstate placement of children.** All interstate placement of children shall be in accordance with chapter 26.34 RCW, except that for children

who are in the care of a crisis residential center and who have legal residence outside the state of Washington and who refuse to return home, provisions of chapter 13.24 RCW (interstate compact on juveniles) shall apply. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-052, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-052, filed 9/8/78.]

**WAC 388-73-054 Client records and information.** Records and information concerning persons in care shall be maintained in such a manner as to preserve their confidentiality. For American Indian children see WAC 388-73-044. Records giving the following information on each person under care shall be maintained at the licensed facility:

(1) Identifying information, including name, birthdate, and, for full-time care providers, dates of admission, absences and discharge; for day care providers, daily attendance.

(2) Names, addresses, and telephone numbers, if any (home and business) of parents and/or other persons to be contacted in case of emergency.

(3) Dates and kinds of illnesses and accidents, medication, and treatments prescribed and time they are given and by whom, and, except for crisis residential centers and certified juvenile detention facilities, dates and types of immunization, and other pertinent information relating to the person's health.

(4) Written parental consent (or court order) for providing medical care and emergency surgery except as such care is otherwise authorized by law.

(5) Names, addresses and telephone numbers of persons who are authorized to take the person under care out of the facility.

(6) Authorization for acceptance of the person under care. Juvenile detention facilities and crisis residential centers shall record the time and date a placement is made, the names of the person and organization making the placement and the reasons for the placement. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-054, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-054, filed 9/8/78.]

**WAC 388-73-056 Reporting of illness, death, injury, epidemic or child abuse.** The licensee shall report to the persons indicated the following events as soon as practical after occurrence:

(1) To the department, placement agency and responsible relative

(a) Serious injury or death of a person under care

(b) Evidence of child abuse or neglect and child abandonment. See chapter 26.44 RCW and WAC 388-73-050, and 388-73-044.

(2) To the local public health officer any occurrence of food poisoning or communicable disease as required by the state board of health.

(3) Day care providers shall in addition report to the responsible relative illness of the person under care and known or suspected exposure to communicable disease.

[Statutory Authority: RCW 72.01.240 and 1979 c 155, 79-10-026 (Order 1431), § 388-73-056, filed 9/10/79. Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-056, filed 9/8/78.]

**WAC 388-73-057 Reporting of circumstantial changes.** Agencies shall report to the department changes in circumstances which might constitute grounds for reclassification of agency as to category of license or continued eligibility for license and major changes in staff or program, including the following:

(1) Changes in agency's address or location and phone number (license is valid only for address indicated on the license).

(2) Changes in the maximum number, age ranges and sex of persons licensee wishes to serve as compared to specifications in the license.

(3) Changes in number and qualifications of agency's staffing pattern, change of agency's chief executive, and the death, retirement or incapacity of a licensee. (A license is valid only for the person or organization named on the license).

(4) Occurrence of a fire on licensed premises, major structural changes or damage to premises from any causes and plans for major remodeling of facility.

(5) Change in name of a licensed corporation, or name by which a facility is commonly known, and changes in agency's articles of incorporation and by-laws.

(6) Marriage or divorce of a foster parent or other change in household composition which affect eligibility for license or number of persons that may be served. [Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-057, filed 9/8/78.]

**WAC 388-73-058 Earnings, allowances, personal belongings.** Except for crisis residential centers and juvenile detention facilities, full time child care providers shall give each child a regular allowance based on his/her age, needs and ability to handle money. Group care facilities shall account for allowances given and for children's earnings, if any, in a ledger or other appropriate record maintained for this purpose. When a person is discharged, he/she shall be permitted to take his/her personal belongings and all of his/her money, or be fully informed about the transfer of his/her money to another facility. [Statutory Authority: RCW 72.01.240 and 1979 c 155, 79-10-026 (Order 1431), § 388-73-058, filed 9/10/79. Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-058, filed 9/8/78.]

**WAC 388-73-060 Work assignments.** Persons under care 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. Work assignments shall be appropriate to the age and physical condition of the person under care. [Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-060, filed 9/8/78.]

**WAC 388-73-062 Transportation.** When a licensee provides transportation for persons under care:

(1) The vehicle shall be in safe operating condition. The driver shall have a current driver's license.

(2) There shall be at least one adult supervisor other than the driver in a vehicle when there are more than six preschool-aged children in the vehicle.

(3) Licensee or driver shall carry liability and medical insurance.

(4) Seat belts or other appropriate safety devices shall be provided for all passengers. The number of passengers shall not exceed the vehicle's seating capacity. [Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-062, filed 9/8/78.]

**WAC 388-73-064 Clothing.** Full-time care providers are responsible to provide or arrange for clothing for the persons under care. Clothing shall be neat, seasonable and of such quality and design as to foster self-respect. [Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-064, filed 9/8/78.]

**WAC 388-73-066 Personal hygiene.** Licensees are responsible to provide or arrange for items needed for good grooming and personal hygiene for persons under care. [Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-066, filed 9/8/78.]

**WAC 388-73-068 Personnel policies.** All agencies employing five or more persons shall have written policies covering qualifications and duties of staff and volunteers, hours of work, rate of payment, and fringe benefits. [Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-068, filed 9/8/78.]

**WAC 388-73-070 Training.** Staff shall be made aware of the licensee's policies and procedures and the rules contained in this chapter. All agencies employing five or more persons shall have an in-service training program for developing and upgrading staff skills. [Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-070, filed 9/8/78.]

**WAC 388-73-072 Education and vocational instruction.** Each group care facility, other than a crisis residential center or juvenile detention facility, and each maternity service, day treatment program, and child-placing agency shall:

(1) Provide or arrange for the provision of a suitable educational plan for each person in care who has not completed high school. Group care agencies shall provide suitable study areas. If instruction is given on the agency's premises, appropriate classrooms separate from the living area shall be provided.

(2) Provide the department with a written description of its educational program.

(3) Where an academic program is not appropriate for a particular person in care, 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 person to attain self-sufficiency. If



a person has job skills, a training program may not be needed, but assistance in obtaining suitable employment shall be provided when necessary. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-072, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-072, filed 9/8/78.]

**WAC 388-73-074 Social service staff.** (1) Each child-placing agency, day treatment program, maternity service, and group care facility, except for juvenile detention facilities, shall provide or arrange for social services by persons at least one of whom has a master's degree in social work or closely allied field.

(2) Social service staff who do not have a master's degree in social work shall have a bachelor's degree in social work or closely allied field and shall be under the supervision of a person having a master's degree in social work or closely allied field for a minimum of two hours per week.

(3) When social services are provided by an agency other than the licensee, there shall be a written agreement detailing the scope of service to be provided. Any such agreement must meet the requirements of this section.

(4) The following minimum ratios of full-time social service staff providing direct services to persons under care shall be provided:

Day Treatment Program . . . . .	1 to 15
Group Care Facilities . . . . .	1 to 25
Child-Placing Agency . . . . .	1 to 25
Maternity Services . . . . .	1 to 25
Regional and other group care crisis residential centers . . . . .	1 to 5

[Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-074, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-074, filed 9/8/78.]

**WAC 388-73-076 Social study-treatment plans.** Except for juvenile detention facilities, the social service staff of each child-placing agency, day treatment program, maternity service, and group care facility shall:

(1) Develop or assemble from appropriate sources a written diagnostic social study on each child and expectant mother accepted for care. Except in the case of persons accepted for emergency care, the study shall serve as the basis of the person's admission to care. In such case, the study shall be completed within thirty days after admission if the person remains in care. The study shall contain in addition to the minimum information recorded as required by WAC 388-73-054 the following information:

- (a) Child's school records (grade placement, report cards and correspondence with schools).
- (b) Copies of psychological or psychiatric evaluations, if any, of the child or expectant mother.
- (c) A narrative description of the background of the child and his family, their inter-relationships and the problems and behaviors which necessitate care away

from own home, previous placement history, if any, and an evaluation as to need for the particular services and type of care which licensee will provide. For American Indian children see WAC 388-73-044.

(2) Develop and implement a written treatment plan for each person accepted for care. Such plan shall outline the agency's treatment goals and methods of work with the individual and his family. The plan shall be updated at least quarterly to show progress toward achievement of goals and shall identify impediments to the return of the child to his own home, the home of relatives, or placement for adoption and steps taken or to be taken to overcome those impediments. No person shall be admitted to nor retained in an agency's program who cannot be served effectively by that program or who can be served more appropriately by another available program.

(3) Whenever the treatment plan indicates the child may return to his/her own home, the agency shall provide or arrange for services to child's parents. Where geographical or other conditions prevent the licensee from working directly with child's parents or another agency is already providing appropriate services, the licensee shall enter into an agreement with that agency for joint planning and exchange of reports toward the end of reuniting the family, or shall make arrangements with another appropriate agency toward that end. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-076, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-076, filed 9/8/78.]

**WAC 388-73-078 Clerical, accounting and administrative services.** Except for foster family homes for children or expectant mothers, family homes for adults and family day care homes, each agency shall provide or arrange for sufficient clerical, accounting and administrative staff or services as are required to maintain proper records and carry out the agency's program. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-078, filed 9/8/78.]

**WAC 388-73-080 Support and maintenance staff.** Except for foster family homes for children or expectant mothers, family homes for adults and family day care homes, each licensee shall provide or arrange for sufficient support and maintenance staff or services as are required for the maintenance and repair of the facility and preparation and serving of meals. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-080, filed 9/8/78.]

**WAC 388-73-100 Site and telephone.** The facility shall be located on a well-drained site 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 which shall be accessible for emergency use at all times. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-100, filed 9/8/78.]



**WAC 388-73-102 Safety and maintenance.** (1) The physical plant, premises and equipment shall be maintained in a clean and sanitary condition, free of hazards and in good repair. Steps shall be provided with handrails as determined necessary by the department. Emergency lighting devices, such as flashlights, in operational condition shall be available. All flaking or deteriorating lead-based paint on exterior and interior surfaces, and equipment and toys which are accessible to preschool-age children shall be refinished with lead-free paint or other nontoxic material.

(2) In facilities which care for seven or more children, toilet rooms, kitchens and other rooms subject to moisture shall have washable, impervious floors.

(3) In facilities caring for seven or more preschool children, electrical outlets shall be of a safety type, covered with blank plates, or otherwise made inaccessible to such children. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-102, filed 9/8/78.]

**WAC 388-73-104 Firearms.** Firearms, if any, shall be used only under competent adult supervision and when not in use shall be kept in locked storage accessible only to authorized persons. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-104, filed 9/8/78.]

**WAC 388-73-106 Storage.** (1) Suitable space shall be provided and used for the storage of clothing and personal possessions of person in care, play and teaching equipment and supplies, records and files, cots, mats and bedding.

(2) Cleaning supplies, toxic substances, poisons, aerosols and items bearing warning labels shall be stored so as to be inaccessible to preschool children and other persons with limited mental capacity. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-106, filed 9/8/78.]

**WAC 388-73-108 Bedrooms.** In full-time care facilities:

(1) Hallways, kitchens, living rooms, dining rooms and unfinished basements shall not be used as 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 six years of age. Multiple occupancy bedrooms shall provide not less than fifty square feet per occupant of floor area exclusive of closets. There shall be not less than thirty inches laterally between beds. In group-care facilities and maternity homes, single occupancy bedrooms shall provide at least eighty square feet of floor space. Each person in care shall have a bed of his/her own. There shall be no more than four persons to a bedroom except in facilities licensed for more prior to the adoption of these rules.

(2) For each person in care there shall be a bed at least thirty inches wide with a clean, firm mattress, pillow, sheets, blankets and pillow cases. Pillows shall be covered with waterproof material or be of a washable type. Waterproof mattress covers shall be provided for incontinent persons.

(3) The upper bunk of doubledeck beds are prohibited for use by preschool-age children, expectant mothers and handicapped persons. When mother and child sleep in the same room, the room shall contain at least one hundred square feet of usable floor space. A crib or bassinet with a clean, firm mattress covered with a waterproof material shall be provided for the child. No more than one mother and her newborn infant(s) may occupy a bedroom.

(4) Bedding shall be clean; sheets and pillowcases shall be laundered weekly.

(5) No child over the age of one year shall share a bedroom with foster parents or agency staff. 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.

(6) See WAC 388-73-146(7) for requirements for cribs for infants. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-108, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-108, filed 9/8/78.]

**WAC 388-73-110 Special care room.** Except for child-placing agencies, foster family homes for children, expectant mothers or adults and family day care homes, each agency shall provide a separate room or segregated area which is designated for the care of a person under care who needs to be separated from the group due to injury, illness or the need for additional rest. This room or area must be located so that the child can be supervised. Toilet and lavatory facilities shall be readily accessible. If the person under care is suspected of having a communicable disease, all equipment used by the child must be adequately sanitized after use. This room or area may be used for other purposes when not needed for the separation and care of a person in care. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-110, filed 9/8/78.]

**WAC 388-73-112 Kitchen facilities.** (1) Facilities for the proper storage, preparation and service of food shall be provided to the extent required by the type of care being provided.

(2) All food service facilities and practices in day care centers, day treatment programs, group care facilities and maternity homes 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 department.

(3) Children may participate in food preparation provided it is part of an agency's supervised program. Preschool age children shall be supervised when in the kitchen.

(4) In day care centers the kitchen shall be inaccessible to children except for planned and supervised activities. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-112, filed 9/8/78.]

**WAC 388-73-114 Housekeeping sink.** For facilities licensed for the care of thirteen or more persons, a housekeeping sink or a substitute acceptable to the department shall be provided. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-114, filed 9/8/78.]

**WAC 388-73-116 Laundry.** (1) Adequate facilities shall be provided for separate storage of soiled linen and clean linen. Adequate laundry and drying equipment shall be provided unless arrangements are made for commercial laundry services, or bedding and/or clothing are provided and laundered by parents.

(2) For facilities licensed to care for seven or more persons, laundry equipment shall be located in an area separate from the kitchen and child care areas. Water temperature for laundry shall be maintained at a minimum of 140° F. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-116, filed 9/8/78.]

**WAC 388-73-118 Toilets, lavatories and bathing facilities.** (1) There shall be at least one indoor flush type toilet and one lavatory with hot and cold or tempered running water. The following ratios of persons normally on the premises to facilities shall apply:

	Toilets	Lavatories	Bathing Facilities
Day Care Centers Day Treatment Programs	2 minimum and 1:15 or major fraction	2 minimum and 1:15 or major fraction	None Required
Mini-Day Care Programs	1 minimum	1 minimum	None Required
Group Care Facilities Maternity Homes	2 minimum and 1:8 or major fraction	2 minimum and 1:8 or major fraction	1 minimum and 1:8 or major fraction
Family Home for Adults Foster Family Home Family Day Care Home	1 minimum	1 minimum	1 minimum

(2) Toilet and bathing facilities shall provide for privacy for persons of the opposite sex who are six years of age or older.

(3) Toilet, urinals and handwashing sinks shall be of appropriate height for the children served or be provided with a safe and easily cleanable platform

(4) For facilities licensed for the care of seven or more persons, lavatories and bathing facilities shall be provided with hot and cold or tempered running water which shall not exceed 110° F. for preschool or mentally retarded children and 120° F. for all others.

(5) All bathing facilities shall have a conveniently located grab bar unless other safety measures, such as nonskid pads, are approved by the department (see (8) below). Preschool children shall not be left unattended in a bathtub.

(6) 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.

(7) Whenever urinals are provided, 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.

(8) In maternity homes bathing facilities shall have adequate grab bars in convenient places. All sleeping areas shall have at least one toilet and lavatory on the same floor.

(9) Soap and individual towels or disposable towels shall be provided. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-118, filed 9/8/78.]

**WAC 388-73-120 Lighting.** Light fixtures shall be selected and located to provide for the comfort and safety of the persons under care. Lighting intensities shall be at least fifteen foot candles for all rooms and areas used for care, except for classrooms, study areas and food service areas, which shall be thirty foot candles. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-120, filed 9/8/78.]

**WAC 388-73-122 Pest control.** The premises shall be kept free from rodents, flies, cockroaches, and other insects. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-122, filed 9/8/78.]

**WAC 388-73-124 Sewage and liquid wastes.** Sewage and liquid wastes shall be discharged into a public sewer system or into an independent sewage system approved by the local health authority or department. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-124, filed 9/8/78.]

**WAC 388-73-126 Water supply.** A private water supply must be approved by the local health authority or department. Disposable paper cups, individual drinking cups or glasses or inclined jet type drinking fountains shall be provided. Bubblers type fountains and common drinking cups are prohibited. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-126, filed 9/8/78.]

**WAC 388-73-128 Temperature.** Temperature within the facility shall be maintained at not less than 68° F. during waking hours, and at not less than 60° F. during sleeping hours. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-128, filed 9/8/78.]

**WAC 388-73-130 Ventilation.** The facility shall be ventilated to assure health and comfort of the persons under care. Toilets, bathrooms and areas which contain housekeeping sinks which do not have windows opening to out of doors shall be vented by mechanical exhaust to the out of doors. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-130, filed 9/8/78.]

**WAC 388-73-132 Health care plan.** (1) All facilities providing direct care shall have a written plan of action to be taken in the event of medical emergencies

and a plan for health supervision and arrangement for the provision of needed medical care.

(2) Agencies licensed for the care of seven or more persons shall:

(a) Arrange for the services of an advisory physician, physician's assistant or registered nurse to assist in the development and periodic review of the agency's health policies, procedures and practices. Emergency phone numbers shall be posted next to the phone.

(b) Maintain current, written medical policies and procedures including standing orders for first aid, care of minor illnesses, action to be taken in the event of medical emergencies, infant-care procedures when infants are under care and general health practices. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-132, filed 9/8/78.]

**WAC 388-73-134 First aid.** (1) A person who has completed a basic Red Cross first aid course or a first aid course approved by the department and training in cardio-pulmonary resuscitation shall be present at all times persons are under care or the licensee shall have a plan approved by the department to obtain such training except that for foster family homes, the "at all times" provision is not applicable. A list of the names of persons who have completed such a course, and the dates of completion shall be maintained in the facility. The requirement for CPR training may be waived for persons when such training is contraindicated for medical reasons.

(2) First aid supplies, as needed to conform with the plan of action, shall be readily available. First aid supplies shall include syrup of ipecac. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-134, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-134, filed 9/8/78.]

**WAC 388-73-136 Medications controlled by licensee.** (1) All medications shall be kept in an orderly fashion in locked storage or otherwise made inaccessible to unauthorized persons and shall be refrigerated when so required.

(2) External medications shall be stored separately (separate compartments) from internal medications.

(3) Medications must be stored in their original container. The container shall contain the patient's name and date of purchase.

(4) Only the licensee or responsible designee shall disburse or have access to medications except for self-administered medications as provided for in WAC 388-73-138.

(5) Medications shall be disbursed only on the written approval of a parent, or person or agency who has authority by court order to approve medical care. Medications shall be disbursed only as specified on the prescription label or as otherwise authorized by a physician.

(6) Except for foster family homes, a record shall be kept of all medications disbursed and "as needed" medications shall be approved by a physician or registered nurse prior to disbursement.

(7) Unused medications shall be properly disposed of or returned to the parent or other responsible party. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-136, filed 9/8/78.]

**WAC 388-73-138 Self-administration of medications.** Self-administration of medications by a person in care shall be in accordance with the following:

(1) The person shall be physically and mentally capable of properly taking his/her own medicine. The licensee shall make a written statement of the person's capacities and include such statement in the person's file.

(2) Prescription drugs, over-the-counter drugs purchased independently by a person in care and other medical materials used by individuals shall be kept so they are not available to other persons. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-138, filed 9/8/78.]

**WAC 388-73-140 Health history, physical examinations, immunizations.** This section is not applicable to crisis residential centers and juvenile detention facilities.

(1) A health history for each person under care shall be obtained when the person is accepted for care. This shall include the date of the person's last physical examination, allergies, any special health problems, and for children, an immunization history.

(2) If a child has not been under regular medical supervision or has not had a physical examination by a physician, physician's assistant or certified registered nurse (nurse practitioner) within one year prior to admission, arrangements shall be made for an examination within thirty days.

(3) Yearly physical examinations are required for each child who is not under regular medical supervision.

(4) 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 for diphtheria, tetanus, polio, measles and rubella.

(5) Children who have not received all immunizations appropriate for their age may be accepted on a provisional basis if immunizations are started and are completed as rapidly as is medically indicated. 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. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-140, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-140, filed 9/8/78.]

**WAC 388-73-142 Tuberculosis, communicable disease.** (1) Each licensee, employee and volunteer shall

have tuberculin skin test by the Mantoux method ever two years unless medically contraindicated. Persons whose TB skin test is or has previously been positive shall have a chest x-ray every two years.

(2) Persons with a communicable disease in an infectious stage shall not be on duty. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-142, filed 9/8/78.]

**WAC 388-73-144 Nutrition.** (1) Food served by each agency shall be planned in light of the needs of the persons under care, taking into consideration their ages, cultural background, any handicapping condition, and hours of care in the facility.

(2) The use of raw milk is prohibited. Skim milk and reconstituted nonfat dry milk shall not be used for drinking purposes by children less than two and one-half years of age, except with the written permission of a physician. Dry milk and milk products may be reconstituted in the facility for drinking purposes for children over two and one-half years of age provided the preparation, service, and storage of said milk is in accordance with the requirements of chapter 248-84 WAC relating to potentially hazardous foods.

(3) For facilities licensed to care for seven or more persons, daily menus, including snacks, shall be prepared one week in advance, dated and plainly posted for a one week time span. Any substitutions shall be of comparable food value and recorded. These menus shall be kept on file for a minimum of six months for review by the department.

(4) Nutrient concentrates, supplements and modified diets (therapeutic and allergy diets) shall not be served except with the written instructions of a physician. The parent, responsible relative or physician must submit a written diet listing foods the person cannot have. This list, with the person's name, must be plainly posted and followed by staff.

(5) Day care and day treatment – Children in care for five to ten hours shall be served food that provides at least one-third of the 1974 recommended dietary allowances set by the national research council. Children in care for more than ten hours shall be served food that provides at least one-half of the 1974 recommended dietary allowances set by the national research council. Children who bring sack lunches from home shall be provided additional foods to meet these requirements. Licensees shall consult with parents as to the additional foods that are provided.

(a) All children arriving before 7:00 a.m. who have not received breakfast shall be offered a breakfast that provides at least one-fourth of the recommended dietary allowances.

(b) All children present shall be offered mid-morning and mid-afternoon snacks. If a breakfast was served to all children, then a mid-morning snack is not required. Children arriving after school shall be offered a snack.

(c) Between-meal snacks shall be provided and may be part of the daily food needs. Snacks shall consist of two or more of the following items (two foods within the

same grouping may be served), served in age-appropriate serving sizes:

- (i) Milk or milk products;
- (ii) Fruit and/or vegetables;
- (iii) Fruit and/or vegetable juices that are at least fifty percent real juice;
- (iv) Whole grain or enriched breads and/or cereal products;
- (v) Protein foods (animal or vegetable).

(d) The occasional serving of party foods which do not meet these requirements is not prohibited.

(6) Full-time care providers – Food shall be served in accordance with the 1974 recommended dietary allowances of the food and nutrition board, national research council, adjusted for age, sex, physical abilities, and activity of each person.

A minimum of three meals in each twenty-four hour period shall be provided, except that when a written request has been made to, and approved in writing by, the department, deviation may be made from this minimum. The time interval between the evening meal and breakfast shall be not more than fourteen hours. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-144, filed 9/8/78.]

**WAC 388-73-146 Infant care.** This section is applicable only to day care centers and to mini day care programs. (1) Children under one month of age shall not be accepted for day care in mini-day programs and day care centers.

(2) Separate rooms and play areas for children under one year or children who are not walking are required for facilities licensed to care for thirteen or more children. Children under one year of age shall be cared for in rooms or areas separate from older children, as approved by the department with not more than ten such children to a room and with handwashing facilities in each such room or convenient thereto.

(3) Diaper-changing places shall be sanitized between use for different children or protected by a disposable covering which is discarded after each use. Disposable towels or clean reusable towels which have been laundered between children shall be used for cleaning children. Personnel shall wash their hands before and after diapering each child.

(4) Mini-day care programs and day care centers shall use disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family. Soiled reusable diapers shall be placed without rinsing into separate cleanable covered containers provided with waterproof liners prior to transport to laundry, parent, or acceptable disposal. Diapers shall be removed from the mini-day care centers and day care centers at least daily. Diaper-changing procedures shall be posted at the changing areas.

(5) Toilet training shall be initiated when readiness is indicated by the child and in consultation with the child's parents/placement agency.

(6) Feeding of infants – Formula feeding of infants (under one year of age) shall be on a schedule agreed

upon by the child's parent(s), guardian, the placement agency, and the licensee.

(a) Feedings prepared on the premises of the facility:

(i) Any formula provided by the parent(s), guardian, placement agency, or licensee shall be in a ready-to-feed strength or require no preparation other than dilution with water at the day care facility.

(ii) If the container in which the feeding was purchased does not include a sanitized bottle and nipple, then transfer of ready-to-feed formula from the bulk container to the bottle and nipple feeding unit must be done in a sanitary manner in the kitchen.

(iii) Bottles filled on the premises of the facility should be refrigerated immediately if not used and contents discarded if not used within twelve hours.

(iv) If bottles and nipples are to be reused by the facility, they must be sanitized by boiling for five minutes or more just prior to refilling. Terminal (one step) sterilization of bottles, nipples, and formula is acceptable.

(v) When more than one bottle-fed child is in care, bottles shall be labeled with the child's name and date prepared. Milk for children requiring bottles but no longer on formula shall be poured from the original container into sanitized, labeled bottles. Sanitized nipples only shall be used on these bottles.

(b) Feedings brought to the child care facility:

(i) Bottles brought into the facility shall have a label showing the child's name and date the bottle was prepared.

(ii) Bottles shall be refrigerated immediately upon arrival at the facility and contents discarded if not used within twelve hours.

(c) Bottles shall not be propped. Semi-solid foods shall be provided for infants at between four and five months of age, upon consultation with the parent/placement agency and/or with a physician when indicated. Infants too young to sit in high chairs shall be held in a semi-sitting position for all feedings. Infants six months of age or over who show a preference for holding their own bottles may do so provided an adult remains in the room and within observation range. Bottles shall be taken from the child when he/she finishes feeding or when the bottle is empty. See also WAC 388-73-144.

(7) Cribs - Cribs shall be made of wood, metal or approved plastic and have secure latching devices. Cribs purchased for the use of infants under six months of age shall have no more than two and three-eighths inches space between vertical slats. Cribs currently on hand which do not meet the spacing requirement may be used provided crib bumpers or other effective methods are used to prevent the infant's body from slipping between the slats. Mattresses shall fit snugly to prevent the infant being caught between the mattress and crib side rails. Crib mattresses shall be waterproof and easily sanitized.

(8) Children's activities - Infants shall be provided 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 facility shall provide suitable toys and equipment for infant care.

(9) Nursing consultation - Facilities caring for five or more infants shall arrange for regular consultation to include at least one monthly on-site visit by a registered nurse trained or experienced in the care of young children. In collaboration with the agency's 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. The nurse's name and telephone number shall be posted or otherwise available in the agency. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-146, filed 9/8/78.]

**WAC 388-73-200 Child-placing agency.** The rules in WAC 388-73-200 through 388-73-250 apply exclusively to licensing of a child-placing agency. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-200, filed 9/8/78.]

**WAC 388-73-202 Required personnel.** (1) A director shall be employed, who is at least twenty-one years of age and who is 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) Specialists in mental health, education, religion, and law shall also be available as needed for work with agency staff, children and parents. Specialists used by the agency shall meet the full requirements of professional competence in their respective fields.

(3) 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 director and may also carry a child care caseload. See also WAC 388-73-074. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-202, filed 9/8/78.]

**WAC 388-73-204 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-204, filed 9/8/78.]

**WAC 388-73-206 Out-of-country, 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 or country;

(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 or country, evidence that it has legal authority to place the child, 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-206, filed 9/8/78.]

**WAC 388-73-208 Medical care.** It shall be the responsibility of the child-placing agency to provide to foster and adoptive 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/her health. The child-placing agency has responsibility to arrange for medical examinations, immunizations and health care as required by WAC 388-73-140. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-208, filed 9/8/78.]

**WAC 388-73-210 Foster care licensees.** As a minimum child-placing agencies shall utilize application and home study forms and procedures prescribed by the department. See also WAC 388-73-024 and 388-73-302. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-210, filed 9/8/78.]

**WAC 388-73-212 Foster care placements.** (1) The agency shall, in planning for children, give due consideration to:

(a) A child's basic right to his/her own home and family;

(b) The importance of skillful professional service to parents to help them meet the child's needs in his/her own home whenever possible;

(c) The child's individual needs, his/her ethnic background, religious background, his/her family situation and the wishes and participation of his/her 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. Placements which involve the likelihood of community concern shall first be submitted to the department for review and written approval. See WAC 388-73-044 for recruitment involving placement of American Indian children.

(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/her family and the expectant mother other than in emergent situations.

(4) Except in an emergency, a child shall be placed in foster care only with the written consent of his/her parents or under order of a court of competent jurisdiction. Such consent or order shall include authorization for medical care or emergency surgery.

(5) All foster homes and group care facilities used by child-placing agencies shall be licensed.

(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 ninety days.

(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. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-212, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-212, filed 9/8/78.]

**WAC 388-73-214 Adoption procedures.** Child-placing agencies shall, as a minimum utilize home study guidelines and procedures as prescribed by the department. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-214, filed 9/8/78.]

**WAC 388-73-216 Adoptive placements.** (1) The agency shall protect the child from unnecessary separation from his/her 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/her 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 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/her 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 six months prior to placement in an otherwise suitable home. See WAC 388-73-044 for placement involving an American Indian child.

(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. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-216, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-216, filed 9/8/78.]

**WAC 388-73-300 Foster family homes and family homes for adults.** The rules in WAC 388-73-300 through 388-73-350 apply exclusively to licensing foster family homes for children, and expectant mothers and family homes for retarded adults and adults in need of protection. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-300, filed 9/8/78.]

**WAC 388-73-302 Orientation and training.** Applicants and foster family home licensees other than those certified for licensing by a licensed child placing agency shall attend orientation and training programs provided, arranged or approved by the department. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-302, filed 9/8/78.]

**WAC 388-73-304 Capacity.** (1) No family home for adults shall be licensed for more than four adults.

(2) No foster family home for children shall be licensed for more than four foster children; nor more than a total of six children to include the foster parent's own minor children residing in the home.

(a) No home designated by the department as a "receiving home" shall be licensed for more than six foster children, such number to be reduced by the number of the foster parent's own minor children residing in the home;

(b) No home that otherwise meets these standards shall be denied a license for the care of at least one child or single family of children.

(3) No foster family home for expectant mothers will be licensed for more than three expectant mothers.

(4) No foster family home for children 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.

(5) No family home shall be licensed for the care of more than two persons suffering mental or physical handicaps of such severity as to require nursing care, and then only if the licensee is qualified by training and/or experience to provide proper care and the person's treatment is under the supervision of a physician.

(6) No foster family home which functions as a crisis residential center shall be licensed for the care of more than four children, including the foster parents' own minor children residing on the premises. No more than two children who require crisis care may be in care at the same time. All such homes shall be two-parent homes and one or the other of the foster parents shall not be employed outside the home. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-304, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-304, filed 9/8/78.]

**WAC 388-73-306 Foster parents/sponsors—Employment.** If both foster parents/sponsors in a two-parent home, or the single foster parent/sponsor in a one-parent home, are or is employed outside the home, the placing agency or department must give written approval. Such approval will be based on the needs of the persons under care. The foster family/sponsor(s) shall have sufficient regular income to maintain their own family without the board payments made for the persons in care.

This section is not applicable to foster family homes licensed as crisis residential centers. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-306, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-306, filed 9/8/78.]

**WAC 388-73-308 Absence from home.** (1) Foster parents/sponsors shall not place a person in another home temporarily or otherwise without the consent of the placing agency, if any, or of his/her parents or guardian or responsible relative.

(2) If it is necessary for the foster parents/sponsors to be absent overnight, the placing agency, if any, if not, the person(s) parents or guardian or responsible relative shall be notified and suitable arrangements made for care. Permission for persons under care to travel on extended trips with foster parents/sponsors shall be obtained from the placing agency, if any, or from parents or guardians or responsible relative. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-308, filed 9/8/78.]

**WAC 388-73-310 Fire safety.** (1) Every room used by persons under care, 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 material shall be stored away from exits and in areas not accessible to persons under care.

(8) Open flame devices, heating and cooking appliances, and other similar products capable of igniting clothing shall not be left unattended or used in such a manner which could result in accidental ignition of clothing.

(9) All persons in care shall be instructed in emergency evacuation procedures and drills conducted at regular intervals to test and practice the procedure.

(10) There shall be readily available an approved five pound or larger all purpose (A.B.C.) type fire extinguisher.

(11) A smoke detector shall be located in proximity to the area(s) where persons under care sleep.

(12) If question arises concerning fire danger, the local fire protection authority shall be consulted. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-310, filed 9/8/78.]

**WAC 388-73-312 Family foster homes--Services to person under care.** (1) Foster parents/sponsors shall provide or arrange for such care and supervision as age and condition of the persons under care require.

(2) Opportunities for recreation shall be provided within the family group and persons in care shall be encouraged to participate in community activities in accord with the person's capacity for such experience. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-312, filed 9/8/78.]

**WAC 388-73-400 Day care providers.** The rules in WAC 388-73-400 through 388-73-490 apply exclusively to licensing of family day care homes, mini-day care programs and day care centers. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-400, filed 9/8/78.]

**WAC 388-73-402 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 day care facility.

(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 two and one-half years of age shall nap in rooms or areas separated from older children and shall be allowed to follow their own sleep schedules. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-402, filed 9/8/78.]

**WAC 388-73-404 Ill children.** Each child shall be observed for signs of illness each day. Children who are ill, tired 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 joint discretion of the parent and licensee. 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-404, filed 9/8/78.]

**WAC 388-73-406 Nap and sleep equipment.** (1) A separate firm, clean bed, crib, play pen, cot, mat or mattress of sufficient size separated by at least thirty inches laterally 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 with cribs until at the discretion of the licensee and parent they are safer on a cot or mat. See also WAC 388-73-146(7)(cribs).

(2) Mats and mattresses shall be covered on all surfaces with impervious material that can be cleaned between use by different children.

(3) Cot surface may be of plastic or canvas or other material which can be cleaned with a detergent solution and allowed to air dry.

(4) Bedding shall consist of an easily laundered sheet or blanket to cover the sleeping surface and a suitable washable covering for the child. Each child's bedding shall be stored separate from bedding used by other children. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-406, filed 9/8/78.]

**WAC 388-73-408 Evening and nighttime care.** (1) A day care provider offering care during evening and nighttime hours shall adapt the program and equipment and plan for staffing to meet the physical and emotional needs of children away from their families at night.

(2) The child care staff 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.

(3) Grouping of children shall be arranged so the 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, and a bedtime snack. Children in nighttime care shall be served a nutritious breakfast if they remain in care after the usual breakfast hour. See WAC 388-73-144 (nutrition). [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-408, filed 9/8/78.]

**WAC 388-73-410 Information to parents.** The parent shall be supplied with the following information in written form: A typical 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, disciplinary policies, and religious activities, if any. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-410, filed 9/8/78.]

**WAC 388-73-412 Toddlers and preschool children.** 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-412, filed 9/8/78.]

**WAC 388-73-420 Orientation and training--Family day care home.** Applicants and family day care licensees shall attend orientation and training programs provided, arranged or approved by the department. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-420, filed 9/8/78.]

**WAC 388-73-422 Capacity--Family day care home.** (1) No family day care home shall be licensed for more than six children; such number shall be reduced by the number of licensee's own children and foster children under twelve years of age who are on the premises.

(2) A family day care home may provide care for more than six children provided that:

(a) None of the additional children are in care for more than three hours; and

(b) In no event shall the total number of children under twelve years of age on the premises exceed ten; and

(c) Whenever there are more than eight children on the premises or whenever there are more than six children on the premises any of whom are under two years of age, the day care provider shall be assisted by a competent person who is at least sixteen years of age.

(3) No family day care home shall care for more than two children under two years of age, including the licensee's own and foster children under two years of age. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-422, filed 9/8/78.]

**WAC 388-73-424 Family day care--Program and equipment.** (1) A variety of play equipment suitable to the ages of the child 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 which are otherwise hazardous to young children shall be removed from areas in which they are playing.

There shall be a 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 child 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.

(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.

(4) Adequate play space shall be available both indoors and out. The outdoor play area shall be fenced if conditions require. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-424, filed 9/8/78.]

**WAC 388-73-426 Family day care--Fire safety.** Each family day care home shall comply with the fire safety requirements specified in WAC 388-73-310. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-426, filed 9/8/78.]

**WAC 388-73-430 Capacity--Limitations on ages and numbers--Mini-day care centers.** No mini-day care program shall be licensed for more than twelve children.

(1) During evening and nighttime 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 twelve years of age regularly 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.

(3) No mini-day care program shall care for more than four children under two years of age, including the licensee's and staff's own and foster children under two years of age on the premises. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-430, filed 9/8/78.]

**WAC 388-73-432 Staffing--Mini-day care program.** (1) At least two staff shall be present:

(a) Whenever more than two infants are under care; or

(b) Whenever more than six children, any of whom are under two years of age, are on the premises; or

(c) Whenever more than eight children, any of whom are under three years of age, are on the premises; or

(d) Whenever more than ten children are on the premises.

(2) Whenever there is only one staff member present, there shall be a second staff member readily available in case of an emergency. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-432, filed 9/8/78.]

**WAC 388-73-434 Qualifications of licensee--Mini-day care.** To obtain a license for a mini-day care program the applicant 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; and have completed or have a plan to complete within a reasonable time a course in early childhood development/education. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-434, filed 9/8/78.]

**WAC 388-73-436 Qualifications of child care staff--Mini-day care.** All child care staff shall be at least sixteen years of age, but in no case shall a person under eighteen be assigned sole responsibility for a group of children. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-436, filed 9/8/78.]

**WAC 388-73-438 Program and equipment--Mini-day care.** (1) Separate play areas shall be available for children who are 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 a 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 adult.

(5) With written parental permission, school-age children may visit neighborhood friends and participate in community activities.

(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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-438, filed 9/8/78.]

**WAC 388-73-440 Play areas--Mini-day care.** (1) 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 and method approved by the department. The playground shall contain a minimum of seventy-five square feet per 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 if conditions require.

(2) Adequate indoor play space shall be available. 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 the usage for its other purposes. If cots and mats are removed when not in use, a minimum of thirty-five square feet per child is required. For children requiring cribs, the area used for play and napping shall contain a minimum of fifty square feet per child. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-440, filed 9/8/78.]

**WAC 388-73-450 Required personnel--Day care centers.** Each day care center shall have the following minimum staff:

(1) A director 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 twenty-one 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 twenty-one 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 completed forty-five college quarter credit hours in early childhood education/development or an equivalent educational background; or be a certified child development associate; or have a plan approved by the department for the achievement of such training within a reasonable period of time. For centers serving school-age children only, courses in education, recreation or physical education may be substituted for the required training.

(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.

(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	Maximum Size of Group
1 month through 11 months	1:5	10
12 months through 29 months	1:7	14
30 months through 47 months	1:10	20
48 months and older	1:10*	20

\*or major fraction of such number computed on the basis of the total number of children of such ages in care

The above child care staff to child ratio shall be maintained both indoors and out and on field trips. Children shall be grouped according to their ages as indicated above. The department may approve reasonable variations related to the groupings and activities of the children 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 or auditory range of a staff member.

(b) Minimum staff on duty

At least two staff (at least one of whom is a child care staff) shall be present:

(i) Whenever more than six children, any of whom are under two years of age, are on the premises; or

(ii) Whenever more than eight children, any of whom are under three years of age, are on the premises; or

(iii) Whenever more than ten children are on the premises.

Whenever there is only one staff member present, there shall be a second staff member readily available in case of an emergency.

(c) Qualifications of child care staff. All child care staff shall be at least sixteen years of age, but in no case shall a person under eighteen be assigned sole responsibility for a group of children. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-450, filed 9/8/78.]

**WAC 388-73-452 Program--Day care centers.** 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 a 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. Each day care facility shall have a program plan evidenced by a written daily schedule and periodic staff meetings for planning purposes. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-452, filed 9/8/78.]

**WAC 388-73-454 Toddlers and preschool children--Day care centers.** Ambulatory children between one year and two and one-half 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-454, filed 9/8/78.]

**WAC 388-73-458 Furnishings and equipment--Day care centers.** (1) 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. Furniture and equipment shall not block exits.

(2) 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-458, filed 9/8/78.]

**WAC 388-73-460 Play areas--Day care centers.** The requirements for play areas specified for mini-day care centers in WAC 388-73-440 also apply to day care centers. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-460, filed 9/8/78.]

**WAC 388-73-500 Day treatment center.** The rules in WAC 388-73-500 through 388-73-550 apply exclusively to licensing day treatment centers. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-500, filed 9/8/78.]

**WAC 388-73-502 Function of day treatment program.** A day treatment program is an integrated educational and therapeutic group experience provided during part of the twenty-four hour day, usually throughout the five day week, for the emotionally disturbed child who does not require twenty-four hour residential care but who is unable to adjust to 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 "outpatient" child guidance clinic services and related programs. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-502, filed 9/8/78.]

**WAC 388-73-504 Personnel.** A day treatment program shall have the following staff:

(1) A director 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 twenty-one 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 twenty-one 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.

(4) Teaching staff - The agency shall provide/arrange for teaching staff by certified teachers qualified by training or experience in remedial education.

(5) Group counselors - Group counselors shall be persons who are qualified by training or by experience in the care of disturbed children. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-504, filed 9/8/78.]

**WAC 388-73-506 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-506, filed 9/8/78.]

**WAC 388-73-508 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 and a sample of the schedule of daily activities for persons in care. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-508, filed 9/8/78.]

**WAC 388-73-510 Ill children.** The requirements for care of ill children specified for day care providers in WAC 388-73-404 also apply to day treatment programs. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-510, filed 9/8/78.]

**WAC 388-73-512 Play areas.** The requirements for play areas specified for mini-day care programs and day care centers in WAC 388-73-440 also apply to day

treatment programs. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-512, filed 9/8/78.]

**WAC 388-73-600 Group care facilities.** The rules in WAC 388-73-600 through 388-73-650 apply exclusively to licensing of group care facilities. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-600, filed 9/8/78.]

**WAC 388-73-602 Function of group care facility.** A group care facility normally serves children who are six years of age and older who:

(1) Need foster care but who cannot ordinarily adjust to the close, personal relationships normally required by a foster family home;

(2) Need emergency placement pending more permanent planning or during temporary disruption of a current placement;

(3) Are emotionally disturbed or physically or mentally handicapped, or whose behavior is unacceptable to most foster family home 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-602, filed 9/8/78.]

**WAC 388-73-604 Daily activity program.** Except for juvenile detention facilities 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, a schedule of typical daily activities for persons in care, and a statement of religious practices, if any. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-604, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-604, filed 9/8/78.]

**WAC 388-73-606 Required positions.** An agency shall provide staff in accordance with the following requirements:

(1) A director who shall be responsible for the general management and administration of the agency's program. This person shall be at least twenty-one 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 bachelor's degree in a social science 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) Child care staff whose primary duties are the care, supervision, and guidance of children. Such staff shall be at least eighteen years of age. Staff under twenty-one years of age shall be under the immediate supervision of staff who are at least twenty-one years of age.

In addition, in crisis residential centers, no less than fifty percent of the child care staff shall have completed at least two years of college and one year of working with children in a group setting. Experience may be substituted for education on a year-for-year basis. A BA degree in behavioral or social science may be substituted for experience. The remaining child care staff shall have at least a high school diploma (or equivalent) and one year of successful experience as a foster family parent for three or more children or working with children in a group setting. Two years of college may be substituted for the required experience.

(a) Except for crisis residential centers and juvenile detention facilities, 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.

For juvenile detention facilities there shall be a minimum of one child care staff on duty for every ten children in care during the waking hours of the children.

For regional crisis residential centers, there shall be a minimum of one child care staff on duty for every two children in care during the waking hours of the children, and a minimum of three such staff for every eight children during the sleeping hours.

For other group crisis residential centers, during the waking hours, there shall be a minimum of one child care staff for every three children in temporary protective care without duties related to the children in full-time care. During the sleeping hours, there shall be one such staff member for every five such children. If the two classes of children are combined into one group, the staff ratio applicable to the children in temporary care shall prevail.

For both types of crisis residential centers, on duty staff does not include staff who are asleep on the premises.

The director and support and maintenance staff may serve as child care staff when not involved in other duties, provided the required number of child care staff is maintained.

(b) Except for crisis residential centers whenever more than eight children are on the premises at least two adults (including at least one child care staff) shall be on duty. During nighttime hours "on duty" staff may include staff who sleep in the group care facility and who are available to the children. During sleeping hours there shall be at least one adult in proximity to the children.

(c) Agencies caring for very young children or for children presenting emotional disturbance, physical handicaps or mental retardation shall provide such additional child care staff and professional services for the children as the department requires.

(d) Whenever only one child care staff is on duty, there shall be a second person on call.

(3) Relief staff to enable all staff to have the equivalent of two days off a week. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-606, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-606, filed 9/8/78.]

**WAC 388-73-608 Nursing service.** Group care facilities having as their major purpose the care of chronically ill or severely handicapped children shall make arrangements for regular nursing consultation, including at least one weekly on-site visit, by a registered nurse currently licensed by the state of Washington. His/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 nonmedical personnel in maintaining medical records, meeting daily health needs and caring for children with minor illnesses and injuries. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-608, filed 9/8/78.]

**WAC 388-73-610 Required rooms, areas and equipment--Group care facilities.** 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) Living room. There shall be at least one comfortably furnished living room. (This subsection is not applicable to juvenile detention facilities.)

(2) Dining area. An attractive dining area shall be provided of sufficient capacity to accommodate the group comfortably. (This subsection is not applicable to juvenile detention facilities.)

(3) Staff quarters. Rooms for staff on night supervision shall be separate from but in proximity to the sleeping rooms of the children. (This subsection is not applicable to juvenile detention facilities.)

(4) Recreation area. When there are more than twelve occupants, at least one separate indoor area shall be provided, sufficient in size and location, for recreational and informal education activities.

(5) 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 facilities caring for fewer than thirteen children such offices may be combined with the administrative office.

(6) Visiting area. There shall be space provided where privacy can be achieved for the use of visitors. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-610, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-610, filed 9/8/78.]

**WAC 388-73-700 Maternity services.** The rules in WAC 388-73-700 through 388-73-750 apply exclusively to the licensing of an agency providing or arranging maternity service. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-700, filed 9/8/78.]

**WAC 388-73-702 Types of services.** (1) 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 twenty-four hour day in a facility suitable for such purposes.

(2) Residential care for mothers and infants. Residential care for a group of mothers and their infants provides a group living facility on a twenty-four hour basis, guidance, family life education, and child care for residents who need it, and academic and/or vocational training when appropriate.

(3) Foster family home care. The placement of pregnant girls and women and mothers with infants in properly licensed foster family homes.

(4) Residential care for expectant mothers (maternity home). A maternity home serves as a group living facility to provide residential and treatment on a twenty-four hour basis to expectant unmarried mothers during the period of their pregnancy and the immediate postpartum period. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-702, filed 9/8/78.]

**WAC 388-73-704 Daily activities program.** The agency shall submit a detailed written program description for departmental approval outlining the educational, recreational, and therapeutic services to be provided to persons in care, a schedule of typical daily activities for persons in care, and a statement of religious practices, if any. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-704, filed 9/8/78.]

**WAC 388-73-706 Eligibility for service—Required services.** (1) Eligibility for service shall not be contingent upon a parent's decision to keep or relinquish her child.

(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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-706, filed 9/8/78.]

**WAC 388-73-708 Required personnel.** (1) A director shall be employed, who is at least twenty-one years of age and who is 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) Consultants and other specialists. 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. There shall be a written agreement between the agency and each consultant specifying the conditions of consultation.

(3) Residential staff. Residential programs providing twenty-four 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) Residential staff shall be on duty in a ratio of one such staff to every eight mothers or major fraction thereof. When more than eight mothers are on the premises, at least two adults (including at least one residential care staff) shall be on duty. Additional staff may be required under certain circumstances, as required by the department.

(b) On duty staff may include persons who sleep on the premises but who are available to the residents as needed during the nighttime 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.

(4) Relief staff. Sufficient relief staff shall be available to allow all staff the equivalent of two days off a week. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-708, filed 9/8/78.]

**WAC 388-73-710 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.

(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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-710, filed 9/8/78.]

**WAC 388-73-712 Health education.** All maternity service programs shall make provisions for skilled instruction in the nature and need for postnatal and pediatric 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 changes which occur, the events and procedures used in examination, and childbirth. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-712, filed 9/8/78.]

**WAC 388-73-714 Family life education.** All maternity service programs shall provide or arrange for classes in family life such as: Home management and consumer education, child-rearing techniques, and family planning. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-714, filed 9/8/78.]



**WAC 388-73-716 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-716, filed 9/8/78.]

**WAC 388-73-718 Child care.** Programs serving parents with 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-718, filed 9/8/78.]

**WAC 388-73-720 Medical service.** (1) Each expectant mother and mother and infant shall be under the medical supervision of a physician.

(2) Consultation by specialists shall be provided when requested by the physician.

(3) For expectant mothers:

(a) Deliveries shall be in a licensed hospital or approved birthing facility. 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 or retained in group care. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-720, filed 9/8/78.]

**WAC 388-73-722 Required rooms, areas, equipment.** (1) The required rooms, areas and equipment specified for group care facilities in WAC 388-73-610 apply to maternity homes and also residential care for mothers and infants.

(2) The required rooms, areas and equipment specified for group care facilities in WAC 388-73-610 except for living rooms, dining areas, staff quarters and recreational areas, also apply to day programs for mothers.

(3) 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. [Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-722, filed 9/8/78.]

**WAC 388-73-800 Crisis residential centers.** The rules in WAC 388-73-800 through 388-73-820 apply

exclusively to crisis residential centers. The crisis residential center may, in addition to being licensed as such, also be licensed as a family foster home or as a group care facility and may house juveniles assigned for regular foster family care or group care as well as juveniles receiving temporary protective care. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-800, filed 9/10/79.]

**WAC 388-73-802 Limitations on number of facilities.** Crisis residential centers will be licensed as such at the discretion of the department as determined by the need for such a facility in the area in which the facility will be located and moneys appropriated for such purposes. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-802, filed 9/10/79.]

**WAC 388-73-804 Hours of operation.** Intake shall be open twenty-four hours a day, seven days a week. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-804, filed 9/10/79.]

**WAC 388-73-810 Group crisis residential centers.** All requirements applicable to group care facilities unless otherwise indicated by the text, are also applicable to regional crisis residential centers and to crisis residential centers operated as part of a licensed group care facility. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-810, filed 9/10/79.]

**WAC 388-73-820 Family crisis residential centers.** All requirements applicable to foster family homes, unless otherwise indicated in the text, are also applicable to crisis residential centers operated in a foster family. [Statutory Authority: RCW 72.01.240 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-820, filed 9/10/79.]

## Chapter 388-75 WAC

### MINIMUM REQUIREMENTS FOR LICENSING CHILD CARE AGENCIES AND MATERNITY SERVICES

WAC  
388-75-003 through 388-75-793 Repealed.

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

388-75-003 Definitions. [Order 936, § 388-75-003, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-006 Nonlicensed facilities unlawful. [Order 936, § 388-75-006, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-009 Action against agency. [Order 936, § 388-75-009, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-012 Exceptions to rules. [Order 936, § 388-75-012, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

- 388-75-015 Agencies to be licensed—Definitions—Categories. [Order 936, § 388-75-015, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-018 Exemptions—Facilities not subject to licensing. [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.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-021 Certification of exempt program or facility. [Order 936, § 388-75-021, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-024 Certification of drug treatment center. [Order 936, § 388-75-024, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-027 Application for license. [Order 936, § 388-75-027, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-030 Licenses for homes under supervision of licensed agency. [Order 936, § 388-75-030, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-031 Licensure of staff members. [Order 1146, § 388-75-031, filed 8/26/76.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-033 Fire marshal's approval. [Order 936, § 388-75-033, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-036 Health approval. [Order 936, § 388-75-036, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-039 Local ordinances—Effect of. [Order 936, § 388-75-039, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-042 Character references. [Order 936, § 388-75-042, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-045 Duration and provisions of license. [Order 936, § 388-75-045, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-048 Renewal of license. [Order 936, § 388-75-048, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-051 Provisional license. [Order 936, § 388-75-051, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-054 Denial, revocation, suspension of license. [Order 936, § 388-75-054, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-057 Administrative hearing. [Order 936, § 388-75-057, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-060 Operation following suspension or revocation of license. [Order 936, § 388-75-060, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-063 Periodic review of licensing requirements. [Order 936, § 388-75-063, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-066 Review by advisory committee. [Order 936, § 388-75-066, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-069 Periodic visits and consultation. [Order 936, § 388-75-069, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-072 Reporting of injury, death, epidemic, or child abuse. [Order 936, § 388-75-072, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-075 Records and reports. [Order 936, § 388-75-075, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-078 Discrimination prohibited. [Order 985, § 388-75-078, filed 11/29/74; Order 936, § 388-75-078, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-081 Agency conducted by religious organization. [Order 936, § 388-75-081, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-084 Transportation. [Order 936, § 388-75-084, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-087 Care and administration of medications. [Order 936, § 388-75-087, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-090 Personnel policies. [Order 936, § 388-75-090, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-093 Special requirements regarding American Indians. [Order 985, § 388-75-093, filed 11/29/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-103 Child placing agency. [Order 936, § 388-75-103, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-106 Child placing agency—Governing or advisory board. [Order 936, § 388-75-106, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-109 Child placing agency—Out-of-state agencies. [Order 936, § 388-75-109, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-112 Child placing agency—Personnel. [Order 936, § 388-75-112, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-115 Child placing agency—Office space. [Order 936, § 388-75-115, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-118 Child placing agency—Records. [Order 936, § 388-75-118, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-121 Child placing agency—Medical care. [Order 936, § 388-75-121, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-124 Child placing agency—Legal consultation. [Order 936, § 388-75-124, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-127 Child placing agency—Foster care placements. [Order 936, § 388-75-127, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-130 Child placing agency—Adoptive placements. [Order 936, § 388-75-130, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-153 Foster family home. [Order 936, § 388-75-153, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

- 388-75-156 Foster family home—Capacity—Limitations on ages and numbers. [Order 936, § 388-75-156, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-157 Foster family home—Limitation on licensing. [Order 1018, § 388-75-157, filed 4/23/75.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-159 Foster family home—Characteristics of family. [Order 936, § 388-75-159, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-162 Foster family home—Care of child and expectant mother. [Order 936, § 388-75-162, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-165 Foster family home—Register. [Order 936, § 388-75-165, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-168 Foster family home—First aid—Health care. [Order 936, § 388-75-168, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-171 Foster family home—Responsibility of placing agency—Absence from home. [Order 936, § 388-75-171, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-174 Foster family home—Physical aspects of home. [Order 936, § 388-75-174, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-177 Foster family home—Fire safety. [Order 936, § 388-75-177, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-203 Family day care home. [Order 936, § 388-75-203, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-206 Family day care home—Capacity—Limitations on ages and numbers. [Order 936, § 388-75-206, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-209 Family day care home—Characteristics of family. [Order 936, § 388-75-209, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-212 Family day care home—Program and equipment. [Order 936, § 388-75-212, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-215 Family day care home—Nutrition. [Order 936, § 388-75-215, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-218 Family day care home—Discipline. [Order 936, § 388-75-218, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-221 Family day care home—Records. [Order 936, § 388-75-221, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-224 Family day care home—Health care. [Order 936, § 388-75-224, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-227 Family day care home—Physical aspects of home. [Order 936, § 388-75-227, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-230 Family day care home—Fire safety. [Order 936, § 388-75-230, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-253 Mini-day care center. [Order 936, § 388-75-253, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-256 Mini-day care center—Capacity—Limitations on ages and numbers. [Order 936, § 388-75-256, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-259 Mini-day care center—Staffing. [Order 936, § 388-75-259, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-262 Mini-day care center—Qualifications of licensee and staff. [Order 936, § 388-75-262, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-265 Mini-day care center—Program and equipment. [Order 936, § 388-75-265, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-268 Mini-day care center—Nutrition. [Order 936, § 388-75-268, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-271 Mini-day care center—Discipline. [Order 936, § 388-75-271, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-274 Mini-day care center—Records. [Order 936, § 388-75-274, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-277 Mini-day care center—Health care. [Order 936, § 388-75-277, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-280 Mini-day care center—Physical facilities. [Order 936, § 388-75-280, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-283 Mini-day care center—Fire safety. [Order 936, § 388-75-283, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-303 Day care center. [Order 936, § 388-75-303, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-306 Day care center—Required personnel. [Order 936, § 388-75-306, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-309 Day care center—Staff training. [Order 936, § 388-75-309, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-312 Day care center—Program. [Order 936, § 388-75-312, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-315 Day care center—Maximum hours—Rest periods. [Order 936, § 388-75-315, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-318 Day care center—Discipline. [Order 936, § 388-75-318, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-321 Day care center—Infant care. [Order 936, § 388-75-321, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-324 Day care center—Toddlers and preschool children. [Order 936, § 388-75-324, filed 5/23/74.] Repealed

- by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-327 Day care center—School-age children. [Order 936, § 388-75-327, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-330 Day care center—Handicapped children. [Order 936, § 388-75-330, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-333 Day care center—Drop-in care. [Order 936, § 388-75-333, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-336 Day care center—Evening and nighttime care. [Order 936, § 388-75-336, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-339 Day care center—Furnishings and equipment. [Order 936, § 388-75-339, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-342 Day care center—Children's records. [Order 936, § 388-75-342, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-345 Day care center—Parent-center relationships. [Order 936, § 388-75-345, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-348 Day care center—Nutrition. [Order 936, § 388-75-348, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-351 Day care center—Tuberculosis tests for staff. [Order 936, § 388-75-351, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-354 Day care center—Medical policies. [Order 936, § 388-75-354, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-357 Day care center—First aid. [Order 936, § 388-75-357, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-360 Day care center—Health history—Physical exam. [Order 936, § 388-75-360, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-363 Day care center—Immunizations. [Order 936, § 388-75-363, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-366 Day care center—Ill children—Illness and accident report. [Order 936, § 388-75-366, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-369 Day care center—Site and communications—Outdoor play area. [Order 936, § 388-75-369, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-372 Day care center—Safety and maintenance. [Order 936, § 388-75-372, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-375 Day care center—Required rooms, area, equipment. [Order 936, § 388-75-375, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-378 Day care center—Sewage and liquid wastes. [Order 936, § 388-75-378, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-381 Day care center—Pest control. [Order 936, § 388-75-381, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-384 Day care center—Laundry. [Order 936, § 388-75-384, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-387 Day care center—Water supply and plumbing. [Order 936, § 388-75-387, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-390 Day care center—Floors, walls, ceilings, windows. [Order 936, § 388-75-390, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-393 Day care center—Ventilation—Room temperature—Lighting. [Order 936, § 388-75-393, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-396 Day care center—Fire safety. [Order 936, § 388-75-396, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-403 Day treatment center. [Order 936, § 388-75-403, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-406 Day treatment center—Function of day treatment program. [Order 936, § 388-75-406, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-409 Day treatment center—Governance or advisory board. [Order 936, § 388-75-409, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-412 Day treatment center—Personnel. [Order 936, § 388-75-412, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-415 Day treatment center—Ratio of counselor and teaching staff to children. [Order 936, § 388-75-415, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-418 Day treatment center—Personnel—General qualifications. [Order 936, § 388-75-418, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-421 Day treatment center—Tuberculosis tests for staff. [Order 936, § 388-75-421, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-424 Day treatment center—Program. [Order 936, § 388-75-424, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-428 Day treatment center—Social study—Case plan. [Order 936, § 388-75-428, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-430 Day treatment center—Discipline. [Order 936, § 388-75-430, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-433 Day treatment center—Education. [Order 936, § 388-75-433, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-436 Day treatment center—Health. [Order 936, § 388-75-436, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-439 Day treatment center—Nutrition. [Order 936, § 388-75-439, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-442 Day treatment center—Site and communications—Outdoor play area. [Order 936, § 388-75-442, filed

- 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-445 Day treatment center—Safety and maintenance. [Order 936, § 388-75-445, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-448 Day treatment center—Required rooms, area, equipment. [Order 936, § 388-75-448, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-451 Day treatment center—Sewage and liquid wastes. [Order 936, § 388-75-451, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-454 Day treatment center—Pest control. [Order 936, § 388-75-454, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-457 Day treatment center—Laundry. [Order 936, § 388-75-457, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-460 Day treatment center—Water supply and plumbing. [Order 936, § 388-75-460, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-463 Day treatment center—Floors, walls, ceilings, windows. [Order 936, § 388-75-463, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-466 Day treatment center—Ventilation—Room temperature—Lighting. [Order 936, § 388-75-466, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-469 Day treatment center—Fire safety. [Order 936, § 388-75-469, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-503 Group home. [Order 936, § 388-75-503, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-506 Group home—Description. [Order 936, § 388-75-506, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-509 Group home—Function. [Order 936, § 388-75-509, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-512 Group home—Governing or advisory board. [Order 936, § 388-75-512, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-515 Group home—Personnel—General qualifications. [Order 936, § 388-75-515, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-518 Group home—Tuberculosis tests for staff. [Order 936, § 388-75-518, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-521 Group home—Required positions. [Order 936, § 388-75-521, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-524 Group home—Social service. [Order 936, § 388-75-524, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-527 Group home—Education. [Order 936, § 388-75-527, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-530 Group home—Economic experiences. [Order 936, § 388-75-530, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-533 Group home—Spiritual training. [Order 936, § 388-75-533, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-536 Group home—Community contacts. [Order 936, § 388-75-536, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-539 Group home—Discipline. [Order 936, § 388-75-539, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-542 Group home—Clothing. [Order 936, § 388-75-542, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-545 Group home—Required rooms, areas and equipment. [Order 936, § 388-75-545, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-548 Group home—Site and communication. [Order 936, § 388-75-548, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-551 Group home—Safety and maintenance. [Order 936, § 388-75-551, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-554 Group home—Sewage and liquid wastes. [Order 936, § 388-75-554, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-557 Group home—Pest control. [Order 936, § 388-75-557, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-560 Group home—Water supply and plumbing. [Order 936, § 388-75-560, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-563 Group home—Floors, walls, and ceilings. [Order 936, § 388-75-563, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-566 Group home—Ventilation. [Order 936, § 388-75-566, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-569 Group home—Room temperature. [Order 936, § 388-75-569, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-572 Group home—Lighting. [Order 936, § 388-75-572, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-575 Group home—Food and food services. [Order 936, § 388-75-575, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-578 Group home—Health program—Medical service for children. [Order 936, § 388-75-578, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-581 Group home—Health records for children. [Order 936, § 388-75-581, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-584 Group home—Fire safety. [Order 936, § 388-75-584, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-603 Child care institution. [Order 936, § 388-75-603, filed 5/23/74.] Repealed by 78-10-006 (Order

- 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-606 Child care institution—Governing or advisory board. [Order 936, § 388-75-606, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-609 Child care institution—Personnel—General qualifications. [Order 936, § 388-75-609, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-612 Child care institution—Tuberculosis tests for staff. [Order 936, § 388-75-612, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-615 Child care institution—Personnel—Required positions. [Order 936, § 388-75-615, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-618 Child care institution—Staff training. [Order 936, § 388-75-618, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-621 Child care institution—Discipline. [Order 936, § 388-75-621, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-624 Child care institution—Social service. [Order 936, § 388-75-624, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-627 Child care institution—Education. [Order 936, § 388-75-627, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-630 Child care institution—Economic experiences. [Order 936, § 388-75-630, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-633 Child care institution—Clothing. [Order 936, § 388-75-633, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-636 Child care institution—Community contacts. [Order 936, § 388-75-636, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-639 Child care institution—Spiritual training. [Order 936, § 388-75-639, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-642 Child care institution—Food and food services. [Order 936, § 388-75-642, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-645 Child care institution—Health service. [Order 936, § 388-75-645, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-648 Child care institution—Health records. [Order 936, § 388-75-648, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-651 Child care institution—Nursing service. [Order 936, § 388-75-651, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-654 Child care institution—Site and communication. [Order 936, § 388-75-654, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-657 Child care institution—Safety and maintenance. [Order 936, § 388-75-657, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-660 Child care institution—Required rooms, areas and equipment. [Order 936, § 388-75-660, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-663 Child care institution—Sewage and liquid wastes. [Order 936, § 388-75-663, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-666 Child care institution—Pest control. [Order 936, § 388-75-666, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-669 Water supply and plumbing. [Order 936, § 388-75-669, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-672 Water supply and plumbing—Floors, walls, and ceilings. [Order 936, § 388-75-672, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-675 Water supply and plumbing—Ventilation. [Order 936, § 388-75-675, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-678 Water supply and plumbing—Room temperature and lighting. [Order 936, § 388-75-678, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-681 Water supply and plumbing—Fire safety. [Order 936, § 388-75-681, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-703 Maternity services. [Order 936, § 388-75-703, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-706 Maternity services—Definition. [Order 936, § 388-75-706, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-709 Maternity services—Eligibility for service—Required services. [Order 936, § 388-75-709, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-712 Governing or advisory board. [Order 936, § 388-75-712, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-715 Governing or advisory board—Personnel—General qualifications. [Order 936, § 388-75-715, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-718 Governing or advisory board—Staff training. [Order 936, § 388-75-718, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-721 Governing or advisory board—Tuberculosis tests for staff. [Order 936, § 388-75-721, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-724 Governing or advisory board—Required personnel. [Order 936, § 388-75-724, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-727 Governing or advisory board—Guidance and counseling. [Order 936, § 388-75-727, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-730 Governing or advisory board—Health education. [Order 936, § 388-75-730, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-733 Governing or advisory board—Family life education. [Order 936, § 388-75-733, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-736 Governing or advisory board—Religious activities. [Order 936, § 388-75-736, filed 5/23/74.] Repealed



- by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-739 Governing or advisory board—Work assignments. [Order 936, § 388-75-739, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-742 Governing or advisory board—Leisure time activities. [Order 936, § 388-75-742, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-745 Governing or advisory board—Academic and vocational instruction. [Order 936, § 388-75-745, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-748 Governing or advisory board—Child care. [Order 936, § 388-75-748, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-751 Governing or advisory board—Economic experiences. [Order 936, § 388-75-751, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-754 Governing or advisory board—Medical service. [Order 936, § 388-75-754, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-757 Governing or advisory board—Records—Record keeping. [Order 936, § 388-75-757, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-760 Governing or advisory board—Medical records. [Order 936, § 388-75-760, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-763 Governing or advisory board—Site and communication. [Order 936, § 388-75-763, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-766 Governing or advisory board—Safety and maintenance. [Order 936, § 388-75-766, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-769 Governing or advisory board—Water supply—Plumbing. [Order 936, § 388-75-769, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-772 Governing or advisory board—Floors, walls and ceilings. [Order 936, § 388-75-772, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-775 Governing or advisory board—Ventilation—Room temperature. [Order 936, § 388-75-775, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-778 Governing or advisory board—Lighting. [Order 936, § 388-75-778, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-781 Governing or advisory board—Sewage and liquid wastes. [Order 936, § 388-75-781, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-784 Governing or advisory board—Pest control. [Order 936, § 388-75-784, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-787 Governing or advisory board—Required rooms, areas, equipment. [Order 936, § 388-75-787, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-790 Governing or advisory board—Food and food service. [Order 936, § 388-75-790, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-793 Governing or advisory board—Fire safety. [Order 936, § 388-75-793, filed 5/23/74.] Repealed by 78-

10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

**WAC 388-75-003 through 388-75-793 Repealed.**  
See Disposition Table at beginning of this chapter.

### 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) "Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the recipient requesting the service. For the purpose of this section "course of treatment" may include mere observation or, where appropriate, no treatment at all.

(42) "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.

(43) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the department at the ESSO level.

(44) "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.

(45) "Part A" is the hospital insurance portion of medicare.

(46) "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.

(47) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor portion" of medicare.

(48) "Participation" is that part of the cost of medical care which the recipient who has available resources must pay.

(49) "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.

(50) "Professional audit" shall mean that unit of the department which audits and authorizes payment for Title XIX provider billings.

(51) "Professional standards review organization" (PSRO) is the community based organization responsible for the review of the professional activities for which payment may be made for the purpose of determining whether services (a) are medically necessary, (b) appropriate medical care, and (c) meet professionally recognized standards of quality care.

(52) "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".

(53) "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.

(54) "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).

(55) "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".

(56) "Recipient of noncontinuing general assistance" is a person certified by the department as eligible to receive temporary general assistance (GAN).

(57) "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.

(58) "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.

(59) "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.

(60) "Skilled nursing facility" shall mean a licensed facility certified to provide skilled nursing care for which an agreement has been executed.

(61) "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".

(62) "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.

(63) "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.

(64) "State office" or "SO" shall mean the office of medical assistance of the health services division of the department.

(65) "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.

(66) "Title XVI" is a program administered by the social security administration which provides supplementary security income to the aged, blind and disabled.

(67) "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.

(68) "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.

[Statutory Authority: RCW 74.08.090. 78-06-081 (Order 1299), § 388-80-005, filed 6/1/78; 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

- 388-81-010 Civil rights.
- 388-81-040 Fair hearing.
- 388-81-050 Restitution.

**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, handicap, or national origin, nor will they discriminate against any employee or applicant for employment because of race, creed, color, handicap, or national origin, except to the

extent permitted by a bona fide occupational qualification. [Statutory Authority: RCW 74.08.090. 79-01-002 (Order 1359), § 388-81-010, filed 12/8/78; Order 1233, § 388-81-010, filed 8/31/77; Order 264 (part), § 388-81-010, 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 forwarded 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. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-81-040, filed 9/27/78; 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 nongrant recipient, the case and the files relative thereto shall be forwarded to the office of reimbursements 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. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-81-050, filed 1/13/78; Order 299, § 388-81-050, filed 9/6/68; Order 264 (part), § 388-81-050, filed 11/24/67.]

### 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.
388-82-030	State of Washington resident requiring care out-of-state.
388-82-040	Repealed.

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

388-82-040	Medical care for Cuban refugees. [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.] Repealed by 78-02-024 (Order 1265), filed 1/13/78. Statutory Authority: RCW 74.08.090.
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**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 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. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-82-005, filed 1/13/78; 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(2) through (7), and 388-24-550, for aid to families with dependent children, except for WIN registration, 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. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-82-010, filed 9/27/78; 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 related 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 nonobstetric care. (See WAC 388-82-015(4))

(b) Be a resident of the state of Washington, and

(c) Be under the age of twenty-one, or if age twenty-one 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 twenty-one 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 twenty-one may qualify under the "H" category because of the eligibility of the unborn child. Prenatal and six weeks postpartum care is provided and certified to the end of the month in which the postpartum care is provided. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-82-015, filed 1/13/78; 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 in need of medical care only (MO), and has satisfied a deductible of \$200 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. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-82-020, filed 5/16/79; 79-01-002 (Order 1359), § 388-82-020, filed 12/8/78; 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 388-82-030 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 out of the country is restricted to recipients of MA and to the treatment of acute and emergent conditions only. Vendor billing for medical care received by recipients out of the country 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.

Care other than in nursing homes may be obtained in cities bordering the state of Washington when the medical facilities in the adjoining cities are commonly used as a local source of care.

(5) 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. [Statutory Authority: RCW 74.08.090. 79-01-002 (Order 1359), § 388-82-030, filed 12/8/78; 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 388-82-040 Repealed.** See Disposition Table at beginning of this chapter.

**Chapter 388-83 WAC  
MEDICAL CARE--ELIGIBILITY**

WAC	
388-83-027	Repealed.
388-83-028	Extended eligibility.
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.
388-83-065	Transfer of resources within two years prior to application.

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

388-83-027	Medical need. [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.] Repealed by Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), filed 1/13/78.
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**WAC 388-83-027 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-83-028 Extended eligibility.** (1) 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, shall be eligible for federal aid medical care only (FAMCO). The provisions of WAC 388-83-045(8)(a) shall apply.

(2) Applicants for FAMCO or AFDC who were entitled to RSDI benefits in August, 1972, and would have been ineligible solely because of the social security benefits under Public Law 92-336 shall have the twenty percent increase disregarded in determining financial eligibility for FAMCO. The provisions of WAC 388-83-045(8)(b) shall apply.

(3) 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) Participation shall not be required.

(4) Persons who become ineligible for SSI benefits and/or state supplementary payments in July, 1977, solely because of OASDI cost-of-living benefit increases under PL 94-566, section 503 shall remain categorically eligible for medical assistance (MA). This disregard does not apply to:

(a) New applicants (i.e., who were not receiving SSI/SSP prior to increase).

(b) Persons who were not actually receiving SSI/SSP payments for some other reason.

(c) Persons who would have received SSI/SSP if they had applied.

(d) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility, etc. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-83-028, filed 5/16/79; 78-02-024 (Order 1265), § 388-83-028, filed 1/13/78.]

**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(5) 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.

(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. [Statutory Authority: RCW 74.08.090. 79-09-053 (Order 1427), § 388-83-030, filed 8/24/79; 78-10-077 (Order 1346), § 388-83-030, filed 9/27/78; 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 4/15/74; 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, 1979.

Family Size	Standard
1	\$254
2	362
3	413

For each individual above 3 members in the family, an increase in the amount of \$70 shall be added.

(2) Allowances for the costs of additional requirements in WAC 388-29-150 through 388-29-230 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 388-83-028 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. [Statutory Authority: RCW 74.08.090. 79-09-032 (Order 1424), § 388-83-035, filed 8/15/79; 78-10-059 (Order 1339), § 388-83-035, filed 9/22/78; 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 12/31/75; 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 388-29-125. [Statutory Authority: RCW 74.08.090. 79-01-002 (Order 1359), § 388-83-040, filed 12/8/78; 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 \$200 deductible per family. The \$200 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 \$200 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 \$200 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 \$200 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. [Statutory Authority: RCW 74.08.090. 79-01-002 (Order 1359), § 388-83-045, filed 12/8/78; 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.

(4) Even if state law confers adult status at age eighteen (see WAC 388-24-550), the department must consider parental income and resources as available for a child if he is living with the parent until he becomes twenty-one. [Statutory Authority: RCW 74.08.090. 79-09-053 (Order 1427), § 388-83-050, filed 8/24/79; 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 388-83-065 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 388-28-461 and 388-28-462 shall be considered.

(3) The applicant is ineligible if the amount considered available exceeds cost of medical care according to WAC 388-84-020. [Statutory Authority: RCW 74.08-.090. 79-06-034 (Order 1402), § 388-83-065, filed 5/16/79; 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.  
388-84-020 Denial of application.

**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, 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. [Statutory Authority: RCW 74.08.090, 79-06-034 (Order 1402), § 388-84-005, filed 5/16/79; 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 388-84-020 Denial of application.** (1) An application for medical care shall be denied when:

(a) An applicant for medical only does not have an acute and emergent medical condition or has not satisfied the \$200 deductible,

(b) The amount of excess income will exceed the cost of medical care,

(c) The applicant possesses nonexempt resources in excess of the standard.

(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. [Statutory Authority: RCW 74.08.090, 79-01-002 (Order 1359), § 388-84-020, filed 12/8/78; 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.]

**Chapter 388-85 WAC**

**MEDICAL CARE--AUTHORIZATION OF ELIGIBILITY**

WAC  
388-85-020 Redetermination of eligibility.

**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 388-38-280 through 388-38-290.

(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. (See WAC 388-38-255). Eligibility shall be re-determined within thirty days following an indication of a change in circumstances. [Statutory Authority: RCW 74.08.090, 78-10-077 (Order 1346), § 388-85-020, filed 9/27/78; 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.]

**Chapter 388-86 WAC**

**MEDICAL CARE--SERVICES PROVIDED**

WAC	
388-86-005	Services available to recipients of medical assistance.
388-86-008	Patient overutilization.
388-86-012	Audiometric services.
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.
388-86-040	Hearing aids.
388-86-045	Home health services.
388-86-050	Inpatient hospital care.
388-86-067	Mental health center services.
388-86-070	Repealed.
388-86-075	Outpatient and emergency care.
388-86-085	Patient transportation.
388-86-090	Physical therapy.
388-86-095	Physicians' services.
388-86-098	Speech therapy services.
388-86-100	Surgical appliances--Prosthetic devices--Aids to mobility.
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**

388-86-070 Nursing services. [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.] Repealed by 78-02-024 (Order 1265), filed 1/13/78. Statutory Authority: RCW 74.08.090.

**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) The following additional services shall also be authorized when medically necessary: 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.

(7) Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, the department shall approve the request if the recipient or provider submits sufficient objective clinical information (including, but not limited to, a physiological description of the disease, injury, impairment or other ailment; pertinent laboratory findings; x-ray reports; and patient profiles).

(8) A request for medical services may be denied by the department if the requested service is not medically necessary as defined by WAC 388-80-005, is generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of particular circumstances which render the requested service medically necessary.

(9) The department shall approve or deny all requests for medical services within fifteen days of the receipt of the request, except that if additional justifying information is necessary before a decision can be made, the request shall be neither approved nor denied but shall be returned to the provider within five working days of the original receipt. If additional justifying information is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied. However, if such information is returned to the department, the request shall be acted upon within five working days of the receipt of the additional justifying information.

(10) Whenever the department denies a request for medical services the department shall, within five working days of the decision, give written notice of the denial to the recipient and the provider. In order to fully inform the recipient, the notice shall state:

- (a) The specific reasons for the department's conclusion to deny the requested service.

- (b) If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department of social and health services, and instructions on how to obtain such assessment.
- (c) The recipient has a right to a fair hearing if the request is made within thirty days of receipt of the denial, with the instruction on how to request the hearing.
- (d) The recipient may be represented at the hearing by legal counsel or other representative.
- (e) That upon request, the ESSO shall furnish the recipient the name and address of the nearest legal services office.

[Statutory Authority: RCW 74.08.090. 78-06-081 (Order 1299), § 388-86-005, filed 6/1/78; 78-02-024 (Order 1265), § 388-86-005, filed 1/13/78; Order 994, § 388-86-005, filed 12/31/74; Order 970, § 388-86-005, filed 9/13/74; Order 911, § 388-86-005, filed 3/1/74; Order 858, § 388-86-005, filed 9/27/73; Order 781, § 388-86-005, filed 3/16/73; Order 738, § 388-86-005, filed 11/22/72; Order 680, § 388-86-005, filed 5/10/72; Order 630, § 388-86-005, filed 11/24/71; Order 581, § 388-86-005, filed 7/20/71; Order 549, § 388-86-005, filed 3/31/71, effective 5/1/71; Order 453, § 388-86-005, filed 5/20/70, effective 6/20/70; Order 419, § 388-86-005, filed 12/31/69; Order 264 (part); § 388-86-005, filed 11/24/67.]

**WAC 388-86-008 Patient overutilization.** (1) The department may require an individual to designate a primary physician and/or a single pharmacy for exclusive provider service in an effort to:

- (a) Protect the individual's health and safety;
- (b) Provide continuity of medical care;
- (c) Avoid duplication of service by providers;
- (d) Avoid inappropriate and unnecessary utilization of medical assistance.

(2) The department may initiate this action whenever payment records and other information indicate that the prescription of medications exceeds the safe maximum dosages published in current medical and pharmacological references including Physicians' Desk Reference published by Medical Economics Company, Oradell, New Jersey 07649, and Facts and Comparisons published by Facts and Comparisons, Inc., Gene H. Schwach, President, 12011 Marine Avenue, Suite 220, St. Louis, MO 63141.

(3) The individual will be given written notice of his overutilization and the opportunity to select a primary physician and a single pharmacy. The notice will advise the individual that failure to cooperate in this procedure will justify the department's requiring prior approval for all nonemergent medical services and in listing the name of the individual on a provider information memorandum. It will also include the individual's right to request a fair hearing within 30 days if he disagrees with the findings and the department's action.

(4) In the event of a bona fide emergency, the individual may be seen by a physician other than one selected. The primary physician may also refer him to a specialist when necessary. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-86-008, filed 1/13/78.]

**WAC 388-86-012 Audiometric services.** (1) Evaluation of hearing by audiometric equipment is available to recipients of continuing assistance or FAMCO when administered by an approved audiologist and/or specialist in ENT. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-86-012, filed 1/13/78; Order 1202, § 388-86-012, filed 4/1/77.]

**WAC 388-86-020 Dental services.** (1) The department shall provide dental care subject to limitations and conditions set forth below and further defined in current departmental memoranda and schedule of allowances.

(2) Prior authorization is required for nonessential dental services for recipients of medical assistance (MA) and for continuing general assistance (GAU). Prior authorization is not required for essential dental services, as defined in the current departmental memoranda and schedule of allowances. 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 medical only (MO) who have satisfied the deductible 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) Dentures and all other nonessential services, as designated in departmental memoranda and schedule of allowances, require prior approval.

(5) Dentures provided by the department but subsequently lost will not be replaced except where medical necessity is clearly demonstrated and prior approval given by the chief of the office of medical assistance or his designee.

(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.

(7) Orthodontia and fixed prostheses are not provided.

(8) Recipients residing in nursing homes are eligible for dental care subject to the same regulations as those in the general recipient population with the following additional qualifications:

(a) The patient's attending physician will initiate a referral for dental care when a significant dental problem is identified by that physician, the patient, family, nursing home staff or nursing care consultant.

(b) The patient shall have freedom of choice of dentists, including referral to a dentist who has provided

services to the patient in the past. The staff dentist may be called when the patient has no choice of dentists and concurs with the request.

(c) The department will provide transportation to a private dental office for treatment but may approve bedside dental care when sufficient justification exists to show transporting the patient is inappropriate.

(d) Examination or treatment of a nonemergent nature in a nursing home, congregate care facility or group home requires prior approval for each patient. Payment for multiple screening examinations of patients in these settings will not be made. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-86-020, filed 5/16/79; 78-02-024 (Order 1265), § 388-86-020, filed 1/13/78; Order 1162, § 388-86-020, filed 10/13/76; Order 1112, § 388-86-020, filed 4/15/76; Order 938, § 388-86-020, filed 5/23/74; Order 738, § 388-86-020, filed 11/22/72; Order 696, § 388-86-020, filed 6/29/72; Order 581, § 388-86-020, filed 7/20/71; Order 453, § 388-86-020, filed 5/20/70, effective 6/20/70; Order 385, § 388-86-020, filed 8/27/69; Order 264 (part), § 388-86-020, filed 11/27/67.]

**WAC 388-86-023 Chiropractic services.** (1) 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. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-86-023, filed 1/13/78; 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 medical assistance division to provide at least the following items in an unclothed physical examination:

- (i) medical history
- (ii) assessment of physical growth and nutritional status
- (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 twelve years of age or older)
- (xi) assessment of immunization status and updating immunization
- (xii) referral to a dentist for diagnosis and treatment for children three years of age and over.

(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 twenty-one 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 twenty-one years of age may be provided without providing similar services for those over twenty-one. [Statutory Authority: RCW 74.08.090, 79-12-047 (Order 1457), § 388-86-027, filed 11/26/79; 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 eye examinations and eyeglasses when a refractive error of sufficient magnitude exists to require corrective lenses. 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 CSO medical consultant or his designee in the county of residence is not required for eye examinations performed for the purpose of prescribing corrective lenses except in the provision of certain eyeglasses (lenses or frames).

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 two 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).

(4) A choice of frames listed in current DSHS numbered memoranda is offered recipients. Frames are not provided for cosmetic effect or psychological support.

(5) Sunglasses, photochromic aspheric or varalux type lenses are not provided.

(6) Two pair of glasses in lieu of bifocal or trifocal lenses are not provided.

(7) Contact lenses and orthoptics therapy are not provided. [Statutory Authority: RCW 74.08.090, 79-01-002 (Order 1359), § 388-86-030, filed 12/8/78; 78-06-087 (Order 1301), § 388-86-030, filed 6/2/78; Order 1233, § 388-86-030, filed 8/31/77; Order 1203, § 388-86-030, filed 4/1/77; Order 1112, § 388-86-030, filed 4/15/76; Order 994, § 388-86-030, filed 12/31/74; Order 738, § 388-86-030, filed 11/22/72; Order 385, § 388-86-030, filed 8/27/69; Order 264 (part), § 388-86-030, filed 11/24/67.]

**WAC 388-86-032 Exceptions--Treatment for acute and emergent conditions.** (1) The scope of care for persons eligible for 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 CSO 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 6-02 mental hospitals or form 13-32 schools for the mentally retarded 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. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-86-032, filed 5/16/79; 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 388-86-040 Hearing aids.** (1) The department shall provide to recipients who are eligible for continuing assistance or FAMCO:

(a) One new hearing aid under the following conditions:

(i) On prescription of an otolaryngologist, or the attending physician where no otolaryngologist is available in the community, within six months prior to receiving hearing aid dispenser services, and

(ii) With a minimum of 50 decibel loss in the better ear based on auditory screening at 500, 1000, 2000 and 4000 Hertz (Hz) with effective masking as indicated, and

(iii) When covered by a one year warranty, and/or

(b) One-time repair of a state purchased or privately owned hearing aid when covered by a ninety day warranty.

(2) Prior approval is required for the purchase or trial period rental of hearing aids and for one-time repair of a state purchased or privately owned hearing aid.

(3) After expiration of warranties, the owner is responsible for repairs and for purchase of batteries, any attachments and replacements.

(4) Individuals under age twenty-one must be referred to the Crippled Children's Service Conservation of Hearing Program.

(5) Individuals twenty-one years of age and over may sign a waiver statement declining the medical evaluation for religious or personal beliefs that preclude consultation with a physician. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-86-040, filed 1/13/78; 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 home health nursing and other services for which the home health agency has been certified as 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. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-86-045, filed 1/13/78; 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) Hospitalization for services covered by the program requires approval by:

(a) The local medical consultant for:

(i) Prior approval of nonemergent surgery;

(ii) admission and length of stay for recipients on the GAU and MO programs;

(iii) retroactive certification and out-of-state care, including hospitalization in border cities, for recipients on federal aid programs;

(b) The professional standards review organization (PSRO) by certification, when previous agreement with the department and the PSRO exists, and when review is timely and concurrent with hospitalization, for:

(i) Medical illness and emergent surgery for recipients on federal programs;

(ii) admission and length of stay for recipients on federal programs.

(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, by Diagnosis United States Western Region", unless prior contractual arrangements are made by the department for a specified length of stay (see WAC 388-80-005(46) 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 diagnostic 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 presented within sixty days of final service and 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 CSO or regional office where such is employed for recipients of GAU and MO. The professional standards review organization (PSRO) will determine length of stay for recipients on federally-related programs.



(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 twenty-one and for all recipients age sixty-five 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) 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. [Statutory Authority: RCW 74.08.090, 79-10-095 (Order 1439), § 388-86-050, filed 9/25/79; 79-06-030 (Order 1395), § 388-86-050, filed 5/16/79; 79-01-002 (Order 1359), § 388-86-050, filed 12/8/78; 78-06-087 (Order 1301), § 388-86-050, filed 6/2/78; 78-02-024 (Order 1265), § 388-86-050, filed 1/13/78; 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 388-86-067 Mental health center services.** (1) The department shall provide mental health or day health care services to a cash beneficiary under Title XVI, an eligible recipient of a continuing state or federal aid grant or federal aid medical care only. 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 is approved by the department to hold a subcontract from the area agency on aging to provide day health care.

(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, or receives money through a contractual agreement with the area agency on aging for the provision of day health care.

(c) Provides 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 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 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. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-86-067, filed 5/16/79; 78-10-077 (Order 1346), § 388-86-067, filed 9/27/78; 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 Repealed.** See Disposition Table at beginning of this chapter.

**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 medical only. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-86-075, filed 5/16/79; Order 1196, § 388-86-075, filed 3/3/77; Order 1112, § 388-86-075, filed 4/15/76; Order 696, § 388-86-075, filed 6/29/72; Order 566, § 388-86-075, filed 5/19/71; Order 264 (part), § 388-86-075, filed 11/24/67.]

**WAC 388-86-085 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 rates established by the department.

(4) The recipient of medical only must have satisfied the deductible of \$200 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. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-86-085, filed 5/16/79; 79-01-002 (Order 1359), § 388-86-085, filed 12/8/78; 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 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 approval by the local medical consultant. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-86-090, filed 1/13/78; Order 1202, § 388-86-090, filed 4/1/77; Order 1151, § 388-86-090, filed 9/8/76; Order 911, § 388-86-090, filed 3/1/74; Order 781, § 388-86-090, filed 3/16/73; Order 474, § 388-86-090, filed 8/19/70; Order 385, § 388-86-090, filed 8/27/69; Order 303, § 388-86-090, filed 9/6/68; Order 264 (part), § 388-86-090, filed 11/24/67.]

**WAC 388-86-095 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.

(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 chapter 388-70 WAC

(v) Adoptive home placement, see WAC 388-70-440(d)

(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 a skilled nursing 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. Minor surgery and diagnostic procedures performed in a physician's office do not require prior approval. Surgery for cosmetic and self-limiting conditions and CAT scans must have prior approval.

(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. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-86-095, filed 9/27/78; 78-02-024 (Order 1265), § 388-86-095, filed 1/13/78; 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 388-86-098 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 following:

(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). [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-86-

098, filed 1/13/78; 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 one hundred fifty dollars 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 five hundred dollars,

(b) Purchase of nonreusable surgical appliances or prosthetic devices costing more than five hundred dollars, except as described in subsection (2),

(c) All other appliances, rentals and repairs 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 will be made by the department for purchase of all Medicare items.

(6) Medical appliances purchased by the department become the property of the recipient. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-86-100, filed 9/27/78; 78-02-024 (Order 1265), § 388-86-100, filed 1/13/78; 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 388-86-110 X-ray services.** (1) Therapeutic x-rays (deep x-ray and related radiation treatment) will be provided when requested by the attending physician.

(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. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-86-110, filed 9/27/78; 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 medical assistance is obtained.

(2) Extension of the evaluation and review for a period up to ninety days may be authorized by the office of medical assistance if requested and justified by the physical medicine and rehabilitation facility. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-86-112, filed 1/13/78; 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 a recipient of medical assistance (MA) who is temporarily outside the state 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 388-33-365 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, may

render services to persons residing in Washington to the same extent as if practicing in Washington. (See WAC 388-86-020).

(6) For limitations on eligibility for nursing home care out-of-state, see WAC 388-82-030(2). [Statutory Authority: RCW 74.08.090, 79-06-034 (Order 1402), § 388-86-115, filed 5/16/79; 79-01-002 (Order 1359), § 388-86-115, filed 12/8/78; 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 medical only shall be authorized for treatment of acute and emergent conditions only. A deductible of \$200 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(2)(e)).

(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 \$200 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, chiropractic services 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. [Statutory Authority: RCW 74.08.090, 79-06-034 (Order 1402), § 388-86-120, filed 5/16/79; 79-01-002 (Order 1359), § 388-86-120, filed 12/8/78; 78-02-024 (Order 1265), § 388-86-120, filed 1/13/78; 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

#### WAC

388-87-005	Payment—Eligible providers defined—Grounds for terminating participation.
388-87-010	Conditions of payment—General.
388-87-012	Conditions of payment—Consultant's and specialist's services and fees.
388-87-013	Conditions of payment—Hospital care.
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388-87-025	Services requiring approval of medical consultant.
388-87-027	Services requiring prior approval by state office.

- 388-87-050 Payment—Dental services.
- 388-87-070 Payment—Hospital care.
- 388-87-077 Payment—Mental health center services.
- 388-87-080 Payment—Oxygen.
- 388-87-090 Payment—Physical therapy and related services.
- 388-87-095 Payment—Physician service.
- 388-87-100 Repealed.

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

- 388-87-100 Payment—Special duty nursing. [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.] Repealed by 78-10-077 (Order 1346), filed 9/27/78. Statutory Authority: RCW 74.08.090.

**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) An independent (outside) laboratory qualified to participate under Title XVIII or determined currently to meet the requirements for such participation,

(h) A company or individual (not excluded in subsection (3)) supplying items such as ambulance service, oxygen, eyeglasses, other appliances, or approved services,

(i) A provider of screening services that has signed an agreement with the department to provide such services to eligible individuals in the EPSDT program,

(j) A certified center for the detoxification of acute alcoholic conditions,

(k) An outpatient clinical community mental health center, drug treatment center or Indian health service clinic,

(l) 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, 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. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-87-005, filed 9/27/78; Order 1233, § 388-87-005, filed 8/31/77; Order 1112, § 388-87-005, filed 4/15/76; Order 994, § 388-87-005, filed 12/31/74; Order 930, § 388-87-005, filed 4/25/74; Order 739, § 388-87-005, filed 11/22/72; Order 386, § 388-87-005, filed 8/27/69; Order 264 (part), § 388-87-005, filed 11/27/67.]

**WAC 388-87-010 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, or fails to satisfy department conditions of payment such as prior approval and timely billing, 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) The department will not be responsible for payment of that portion of medical care or services reimbursable within a reasonable time by a third party resource available to the recipient such as health insurance coverage, casualty insurance or when medical needs result from accident or injury caused by another party. See WAC 388-83-010(1).

(6) 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)(h). 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)).

(7) 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). [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-87-010, filed 5/16/79; 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 388-87-012 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 388-86-095(4)).

(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. (See WAC 388-87-025(k)).

(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 388-87-025(2)(n)). [Statutory Authority: RCW 74.08.090. 79-01-002 (Order 1359), § 388-87-012, filed 12/8/78; 78-06-087 (Order 1301), §

388-87-012, filed 6/2/78; 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 within sixty days of final service 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. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-87-013, filed 1/13/78; Order 1015, § 388-87-013, filed 3/27/75.]

**WAC 388-87-015 Billing limitations--One hundred twenty-day period.** (1) Providers shall submit their charges at least monthly and shall present their final charges not more than one hundred twenty 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 one hundred twenty 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 one hundred twenty-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 one hundred twenty-day billing period.

(3) The one hundred twenty-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 one hundred twenty-day limitation begins for such eligible individuals as of the date of certification. (See WAC 388-87-010(5)).

(4) The one hundred twenty-day billing limitation does not apply to those individuals receiving supplemental security income benefits or disability related medical assistance when notification of related eligibility for medical care and services is delayed in the federal and state data processing system. The one hundred twenty-day limitation begins for such eligible individuals on the last day of the month of certification. Medical



only (mo) certifications may be similarly delayed pending disability determination. [Statutory Authority: RCW 74.08.090, 79-12-048 (Order 1458), § 388-87-015, filed 11/26/79; 78-02-024 (Order 1265), § 388-87-015, filed 1/13/78; 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 388-87-025 Services requiring approval of medical consultant.** (1) All services rendered recipients of medical only require approval of the local medical consultant. When a medical emergency is alleged but not apparent, the otherwise eligible applicant for 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 \$200 in medical costs have been accrued within seven days prior to application. Subsequent to such denial a medical only applicant has twelve months from the date of application to incur \$200 in medical costs. For this one office call only, the signature on the authorization form may be by a CSO 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 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 CSO. Only the surgeon need obtain written approval for surgery. The services of the surgical assistant and the anesthesiologist or anesthesiologist 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 CSO 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 525-101 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 525-101 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 the maximum limit established – see WAC 388-91-020.

(f) Admission to a hospital – see WAC 388-87-070 and 388-86-050(2).

(g) 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 388-86-080(1) and 388-87-080.

(h) Approval of physical therapy on an outpatient basis or in a nursing home when prescribed by the attending physician – see WAC 388-86-090.

(i) For certain border situations and out-of-state medical care – see WAC 388-82-030(4) and (5), and 388-86-115.

(j) All major appliances – see WAC 388-86-100.

(k) For consultant or specialist referral when such referrals exceed two such consultants or specialists – see WAC 388-86-095(4).

(l) Respiratory therapy in excess of five treatments requires approval.

(m) Speech therapy requires an initial evaluation; both the evaluation and subsequent therapy require prior approval – see WAC 388-86-098.

(n) Psychological evaluation provided in connection with medical diagnosis and treatment (see WAC 388-87-012(6)). [Statutory Authority: RCW 74.08.090, 79-06-034 (Order 1402), § 388-87-025, filed 5/16/79; 79-01-002 (Order 1359), § 388-87-025, filed 12/8/78; 78-06-087 (Order 1301), § 388-87-025, filed 6/2/78; 78-02-024 (Order 1265), § 388-87-025, filed 1/13/78; 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, 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 five hundred dollars,

(ii) Purchase of nonreusable surgical appliances or prosthetic devices costing more than five hundred dollars except those described in WAC 388-87-025(2)(b).

(2) With the exception of prosthetic devices and major appliances, subsection (1) does not apply to CSOs or regions which have full time medical consultants who are authorized to give approval.

(3) The medical director or designee may approve the purchase of a hearing aid for less than 50 decibel loss if social information justifies the need. [Statutory Authority: RCW 74.08.090. 79-09-053 (Order 1427), § 388-87-027, filed 8/24/79; 78-06-087 (Order 1301), § 388-87-027, filed 6/2/78; 78-02-024 (Order 1265), § 388-87-027, filed 1/13/78; 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 388-87-050 Payment--Dental services.** (1) The participating dentist shall bill the department his usual and customary fee using the department approved examination and treatment form.

(2) Payment for dental services is based on the department Schedule of Maximum Allowances.

(3) Fees listed 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.

(4) 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.

(5) Necessary X-rays for diagnostic purposes may be paid for as a part of basic dental services. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-87-050, filed 5/16/79; Order 1203, § 388-87-050, filed 4/1/77; Order 454, § 388-87-050, filed 5/20/70; Order 419, § 388-87-050, filed 12/31/69; Order 386, § 388-87-050, filed 8/27/69; Order 264 (part), § 388-87-050, filed 11/24/67.]

**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, who are eligible for medical assistance,

(c) Recipients of continuing general assistance,

(d) Recipients of federal aid medical care only,

(e) Recipients of medical only who cannot be categorically related and who have satisfied the \$200 deductible as specified by WAC 388-83-045(2)(e).

(2) Payment shall be based on the satisfaction of the criteria for the minimum deductible of \$200 for recipients of medical only. [Statutory Authority: RCW 74.08.090. 79-01-002 (Order 1359), § 388-87-070, filed 12/8/78; 78-02-024 (Order 1265), § 388-87-070, filed 1/13/78; 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 388-87-077 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 medical only. See also WAC 388-86-120. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-87-077, filed 5/16/79; 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 525-101 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 525-101. Approval by the medical consultant is not required for these repeat deliveries. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-87-080, filed 1/13/78; 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 388-86-012, 388-86-090 and 388-86-098 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. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-87-090, filed 1/13/78; 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 medical assistance.

(b) Form 525-100 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 medical assistance that a physician bills the department for inpatient hospitalization visits and the period of hospitalization has been denied, no payment will be made. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-87-095, filed 1/13/78; 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 Repealed.** See Disposition Table at beginning of this chapter.

**Chapter 388-88 WAC**

**MEDICAL CARE—NURSING HOME CARE**

WAC

388-88-001	Nursing home care.
388-88-007	IMR facilities.
388-88-051	Additional services required for IMR residents.
388-88-086	Minimum staffing requirements—IMR.
388-88-088	Classification of IMR clients.
388-88-117	Social leave for IMR clients.

**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, skilled nursing and intermediate care facility, and/or institution for the mentally retarded and those with related conditions (IMR). 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) and 388-88-007, 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. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-001, filed 6/1/78; Order 1257, § 388-88-001, filed 12/21/77.]

**WAC 388-88-007 IMR facilities.** Contracts with IMR facilities will specify one of four levels (A, B, C or D) of service. Clients will be admitted to IMR facilities only after classification by a qualified mental retardation professional employed by the department. This classification will specify one of these four levels. At least fifty percent of the licensed bed capacity will be occupied by persons with mentally retardation or related conditions as of the date of application for certification. Facilities may not admit any residents except IMR residents after the date of certification. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-007, filed 6/1/78.]

**WAC 388-88-051 Additional services required for IMR residents.** In addition to nursing home care as defined in WAC 388-88-050, all IMR residents must receive the following services:

(1) Supervision of each client's total program plan by a qualified mental retardation professional.

(2) Provision of a planned program of individual goal related activities which does not allow for unscheduled activity in excess of three hours of continuous duration.

(3) Active treatment which includes regular, planned, participation in accordance with an individual prescriptive plan. Such treatment must be developed, supervised, reviewed, and revised by appropriate specialists in the field of mental retardation.

(4) Direct services by professional therapists in accord with needs of individual clients including, but not limited to:

- (a) Psychology;
- (b) Recreation;
- (c) Education;

(d) Vocational services. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-051, filed 6/1/78.]

**WAC 388-88-086 Minimum staffing requirements--IMR.** (1) Each level of IMR must provide staff adequate in numbers and qualifications to meet client needs.

(2) In addition, the IMR must provide:

(a) Level A:

(i) Facility-based physician staff to provide for twenty-four hour medical supervision to include examination, diagnosis, planning, implementation, and review of appropriate medical regimen for each client;

(ii) One full-time registered nurse as director of nursing services plus sufficient licensed nurses to provide twenty-four hour nursing coverage;

(iii) Facility-based active treatment staff in accord with WAC 388-88-050 and 388-88-051;

(iv) Residential living staff at one staff per two residents to include sufficient qualified mental retardation professionals.

(b) Level B:

(i) Facility-based physician staff sufficient to provide for examination, diagnosis, planning, implementation and review of an appropriate medical regimen for each client;

(ii) At least one licensed practical nurse plus sixteen hours per month of consultation by registered nurses;

(iii) Facility-based active treatment staff in accord with WAC 388-88-050 and 388-88-051;

(iv) Residential living staff at one staff per two residents to include sufficient qualified mental retardation professionals.

(c) Level C:

(i) A medical director;

(ii) At least one full-time registered nurse as director of nursing services plus sufficient licensed nurses to provide twenty-four hour nursing coverage;

(iii) Residential living staff at one staff per 2.5 residents to include sufficient qualified mental retardation professionals.

(d) Level D:

(i) A medical director;

(ii) At least one licensed practical nurse plus sixteen hours per month of consultation by registered nurses;

(iii) Residential living staff at one staff per five residents to include sufficient qualified mental retardation professionals.

(3) In levels C and D active treatment will be provided by one or more of the following methods:

(a) Consultation by DSHS staff;

(b) Vendor coupons per chapter 388-86 WAC;

(c) Day training programs.

Level C and D facilities will provide transportation for clients to off-premises active treatment programs. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-086, filed 6/1/78.]

**WAC 388-88-088 Classification of IMR clients.** (1) For IMR clients the level of care determinations are made by a qualified mental retardation professional employed by the department, in accordance with his/her best professional judgment. Each IMR client will be classified as needing Level A, B, C, or D services.

(2) In making IMR classification decisions the departmental representative shall utilize the following guidelines:

(a) Level A: Clients who:

(i) Require twenty-four hour licensed nursing care; and

(ii) Manifest behaviors which require highly structured behavioral management programs, or cannot receive adequate care or services in a lesser level of IMR.

(b) Level B: Clients who:

(i) Require licensed nursing care for at least eight hours per day; and

(ii) Manifest behaviors which require highly structured behavioral management programs or cannot receive adequate care or services in a lesser level of IMR.

- (c) Level C: Clients who:
  - (i) Require twenty-four hour licensed nursing care; and
  - (ii) Are capable of participating in off-premises programs.
- (d) Level D: Clients who:
  - (i) Require licensed nursing care for at least eight hours per day; and
  - (ii) Are capable of participating in off-premises programs.
- (3) The classification of IMR clients shall be periodically reviewed by the qualified mental retardation professional for the purposes of:
  - (a) Determining the need for continued stay; and
  - (b) Identifying the level of care required to meet the needs of the client.
- (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 275-27-500 and 388-88-100 through 388-88-102 as applicable. [Statutory Authority: RCW 74.08.090 and 74.09-.120. 78-06-080 (Order 1300), § 388-88-088, filed 6/1/78.]

**WAC 388-88-117 Social leave for IMR clients.** (1) Social leaves must be consistent with goals and objectives of individual program plans.

(2) The facility shall notify the division of developmental disabilities of social absences exceeding 53 hours.

(3) Social absences over seven days require prior written approval by the director, division of developmental disabilities, or his designee.

(4) Social leave in excess of 17 days per year requires prior written approval by the director, division of developmental disabilities, or his designee. [Statutory Authority: RCW 74.08.044. 79-01-084 (Order 1365), § 388-88-117, filed 1/3/79.]

**Chapter 388-90 WAC**

**SKILLED NURSING HOME CARE IN STATE SCHOOLS FOR RETARDED PERSONS**

WAC  
388-90-005 Repealed.

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

388-90-005 Skilled nursing facility care in state school for retarded persons. [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.] Repealed by 78-10-077 (Order 1346), filed 9/27/78. Statutory Authority: RCW 74.08.090.

**WAC 388-90-005 Repealed.** See Disposition Table at beginning of this chapter.

**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 prescription drugs--Medical consultant approval.
388-91-030	Drugs--Prescription, form DSHS 6-02.
388-91-035	Drugs--Pharmacist's agreement.
388-91-040	Drugs--Pricing standards.

**WAC 388-91-010 Drugs--Persons eligible.** Only drugs approved by the federal food and drug administration (FDA) for general use will be provided. Drugs judged "ineffective" or "possibly effective" or experimental will not be provided.

A drug formulary will list all chemicals which are provided without prior approval of medical consultant. Also the formulary will include description of program limitations, rules and program policy and penalties. Chemicals in the formulary will be those generally accepted by physicians in Washington and will be the most conservative and the less costly alternatives.

In accordance with the department's rules and regulations 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 medical only who cannot be categorically related. These persons are identified by the notation "MEDICAL SERVICES LIMITED" 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 antiinfective agents, broncho-dilator agents and antineoplastics may be provided to recipients of medical only who have satisfied the \$200 deductible. All such drugs provided require approval of the local office medical consultant. [Statutory Authority: RCW 74-.08.090. 79-06-034 (Order 1402), § 388-91-010, filed 5/16/79; 78-10-077 (Order 1346), § 388-91-010, filed 9/27/78; Order 682, § 388-91-010, filed 5/10/72; Order 632, § 388-91-010, filed 11/24/71; Order 583, § 388-91-010, filed 7/20/71; Order 461, § 388-91-010, filed 6/17/70, effective 8/1/70; Order 387, § 388-91-010, filed 8/27/69; Order 316, § 388-91-010, filed 10/31/68.]

**WAC 388-91-013 Drugs--Physician's name required on prescriptions.** The prescription, form DSHS 6-02, must bear the prescribing physician's name. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-91-013, filed 5/16/79; 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 psychotherapeutic 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 mail the prescription directly to the institution from which the patient has been discharged, form 13-32 to schools for the retarded or form 6-02 to mental hospitals. The medication is then mailed by the facility pharmacy to the patient. Payment is not made to pharmacist providers in this situation. Coupon confirming eligibility should be attached.

(3) Prescribed nonformulary drugs 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. [Statutory Authority: RCW 74.08.090, 79-06-034 (Order 1402), § 388-91-016, filed 5/16/79; 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 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 CSO within seventy-two hours for consideration by the medical consultant. [Statutory Authority: RCW 74.08.090, 79-06-034 (Order 1402), § 388-91-020, filed 5/16/79; Order 1170, § 388-91-020, filed 11/24/76; Order 884, § 388-91-020, filed 12/17/73; Order 461, § 388-91-020, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-020, filed 10/31/68.]

**WAC 388-91-030 Drugs--Prescription, form DSHS 6-02.** (1) The department's official prescription, form DSHS 6-02, 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. Each prescription must bear specified unit and interval dosage.

(3) Prescriptions for formulary drugs only may be refilled at the discretion and choice of the prescribing physician. Form DSHS 6-02 may be marked by the physician on line B-2 REFILL 1, 2. 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. [Statutory Authority: RCW 74.08.090, 79-06-034 (Order 1402), § 388-91-030, filed 5/16/79; 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 Professional Audit and Systems Section, LG 11, Olympia, WA 98504.

(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. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-91-035, filed 5/16/79; 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. Maximum cost allowed for all drugs, including generic drugs, will be determined by the department.

(2) The department shall not be charged more than the general public or more than the actual acquisition cost (AAC) 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 AAC, 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) Reimbursement of retail pharmacists will be on basis of actual acquisition cost which is the amount paid to wholesaler or manufacturer less any discounts, credits or advances.

(6) Unit dose systems recognized by the department require a minimum of five deliveries weekly or delivery of medical carts every other day with daily service available. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-91-040, filed 5/16/79; 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.]

**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.
388-92-015	General eligibility.
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.
388-92-045	Excluded resources.
388-92-060	Authorization.
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 for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.

(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 one thousand five hundred dollars, 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 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 sixty-five, or are blind, or disabled. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-92-005, filed 5/16/79; 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 388-92-015 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) 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.

(4) 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. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-92-015, filed 1/13/78; 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 388-92-025 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 jointly for spouses who live together in a common household and blind or disabled children who live with their parent(s). Income and resources are considered separately when spouses and/or children and parents cease to live together except for purposes of eligibility determination only, then income and resources are considered mutually available

(i) for the first six months after the month they cease to live together where both spouses apply for FAMCO as aged, blind or disabled,

(ii) for the month of separation where only one spouse applies for FAMCO as aged, blind, or disabled or where blind or disabled children are separated from parents.

(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.
- (e) Even if state law confers adult status at age eighteen (see WAC 388-24-550), the department must consider parental income and resources as available for a child if he is living with the parent until he becomes twenty-one.
- (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 twenty dollars per month if unearned, or ten dollars 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) One-third of any payment for child support received from an absent parent will be excluded.
- (g) The first twenty dollars 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;
- (h) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;
- (i) Tax rebates or special payments exempted by federal regulations and publicized by numbered memoranda from the state office;
- (j) 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 twenty-one 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) For a recipient at home, disregard the following earned income

- (a) If such individual is blind and under age sixty-five:
- (i) The first eighty-five dollars 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 sixty-five:

(i) The first sixty-five dollars 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 sixty-five or over:

(i) The first sixty-five dollars 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.

(6) 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 eighteen years or older, five dollars and seventy cents; 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. [Statutory Authority: RCW 74.08.090, 79-09-053 (Order 1427), § 388-92-025, filed 8/24/79; 79-06-034 (Order 1402), § 388-92-025, filed 5/16/79; 78-10-077 (Order 1346), § 388-92-025, filed 9/27/78; 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 subsections (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, 1979.

(2) Deleted.

(3) Monthly standard

Family size	Standard
1	\$254
2	362
3	413

(4) To the standards in subsection (3) for a family of 3, \$70 shall be added for each additional member. [Statutory Authority: RCW 74.08.090. 79-09-032 (Order 1424), § 388-92-030, filed 8/15/79; 78-10-059 (Order 1339), § 388-92-030, filed 9/22/78; Order 1246, § 388-92-030, filed 10/11/77; Order 1144, § 388-92-030, filed 8/26/76; 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 a person in an institution, income exclusions and disregards are allocated as participation in cost of medical care. For definition of institution see WAC 388-92-005. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-92-035, filed 9/27/78; Order 898, § 388-92-035, filed 1/25/74.]

**WAC 388-92-045 Excluded resources.** Applicants or recipients may transfer or exchange an exempt resource. Cash received from the sale of an exempt resource is excluded provided the total amount of cash is used to replace or reinvest in another exempt resource within three months. Any remaining portion in excess of allowed resources shall be considered a nonexempt resource if the individual's eligibility continues without a break in certification. 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), nonbusiness 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 twenty 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. [Statutory Authority: RCW 74.08.090. 79-10-095 (Order 1439), § 388-92-045, filed 9/25/79; Order 1015, § 388-92-045, filed 3/27/75; Order 898, § 388-92-045, 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, whose medical eligibility ceases, or who has other changes which affect continuing eligibility shall notify the department. (See WAC 388-38-255.) Eligibility shall be redetermined within thirty 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. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-92-060, filed 9/27/78; Order 1111, § 388-92-060, filed 4/15/76; Order 898, § 388-92-060, 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 388-83-028 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. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-92-070, filed 1/13/78; 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**

388-93-040	Computation of available income.
388-93-070	Transfer of resources within two years prior to application.

#### **WAC 388-93-040 Computation of available income.**

(1) Income and net income shall be as defined in WAC 388-22-030. Total income of a beneficiary of supplementary security income is not considered an available resource except for institutionalized recipients.

(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. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-93-040, filed 1/13/78; Order 1067, § 388-93-040, filed 11/17/75; Order 996, § 388-93-040, 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 388-28-461 and 388-28-462 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. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-93-070, filed 5/16/79; Order 996, § 388-93-070, filed 12/31/74.]

### Chapter 388-95 WAC

#### MENTAL INSTITUTIONS--AGE--MEDICAL ASSISTANCE--ELIGIBILITY

##### WAC

388-95-005	Definitions.
388-95-010	Eligibility for aged person.
388-95-025	Notification and application process.
388-95-030	Certification of eligibility.
388-95-050	Repealed.
388-95-055	Department responsibilities for patient/recipient entering psychiatric facility.
388-95-060	Services to patient/recipient in psychiatric facility.
388-95-065	Coordination of services for patient/recipient.
388-95-070	Department responsibilities—Patient/recipient scheduled for release.
388-95-075	ESSO responsibility for social services.
388-95-210	Eligibility for person under age 21.
388-95-225	Notification process.
388-95-250	Repealed.
388-95-255	Department responsibility—Admission.
388-95-260	Services in facility.
388-95-265	Coordination of services.
388-95-270	Department responsibilities—Release.
388-95-275	Supportive social service by ESSO.
388-95-280	Conditions for payment.

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

388-95-050	Time-limited visit. [Order 1044, § 388-95-050, filed 8/14/75.] Repealed by 78-09-052 (Order 1328), filed 8/22/78. Statutory Authority: RCW 74.08.090.
388-95-250	Therapeutic visit. [Order 1044, § 388-95-250, filed 8/14/75.] Repealed by 78-09-052 (Order 1328), filed 8/22/78. Statutory Authority: RCW 74.08.090.

**WAC 388-95-005 Definitions.** (1) "Admission notification" – The facility provides the ESSO 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) ESSO case record;
- (b) Hospital medical record.

(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.

(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" – ESSO where the case is in active status.

(9) "Facility" – see "hospital".

(10) "Written 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) "ESSO service workers" – Social service workers in a ESSO assigned service cases of patient/recipients.

(16) "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.

(17) "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.

(18) "Mental health services representative" (MHSR) – Employee of the health services division, office of



medical assistance, who is responsible to see that requirements of the 65 and over and under 21 programs are carried out within the regulations established in Title XIX of the Social Security Act.

(19) "Patient" - Individual who is the responsibility of the hospital only.

(20) "Patient/recipient" - Individual in the hospital who is the joint responsibility of the divisions of community services, health services, and management and budget services.

(21) "Psychiatric facility" - A JCAH approved psychiatric hospital treating persons for mental diseases.

(22) "Psychiatric hospital social worker" - Social worker employed by the hospital.

(23) "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).

(24) Residential facilities - Group homes providing personal care services.

(25) 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. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-005, filed 8/22/78; 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) 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 and 388-92-055(2)(b).

(3) An applicant determined to be eligible shall be informed by means of an award letter of the action taken by the department.

(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 denial and reason for the action and informed of the right to a fair hearing.

(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. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-010, filed 8/22/78; Order 1044, § 388-95-010, filed 8/14/75.]

**WAC 388-95-025 Notification and application process.** Medical assistance is available to those patients in the facility who meet eligibility requirements.

(1) Eligibility shall be established for patients who are 65 years of age or over and:

(a) On active recipient status at the time of admission;

(b) Not active at time of admission, but financially eligible;

(c) Financially eligible and attains age 65; or a

(d) Patient whose private funds are depleted.

(2) Notification of a recipient's admission or a patient's need to apply for medical assistance shall be provided to the ESSO in a timely manner.

(3) Application shall be processed according to WAC 388-92-020. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-025, filed 8/22/78; 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. All pertinent information from the facility relating to the case shall be transmitted to the ESSO of residence. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-030, filed 8/22/78; Order 1044, § 388-95-030, filed 8/14/75.]

**WAC 388-95-050 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-95-055 Department responsibilities for patient/recipient entering psychiatric facility.** The department is responsible for ESSO and facility joint planning in the provision of services to patient/recipients entering the facility.

(1) The ESSO of residence shall determine eligibility of an applicant referred by the facility.

(2) Information pertinent to the development of a plan of care and treatment shall be provided to the facility by the ESSO. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-055, filed 8/22/78; Order 1044, § 388-95-055, filed 8/14/75.]

**WAC 388-95-060 Services to patient/recipient in psychiatric facility.** (1) 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.)

(2) The patient/recipient shall be entitled to psychiatric services as federally required. (See definitions WAC 388-95-005(6) and 388-95-005(7)(a)(i) and (c). [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-060, filed 8/22/78; Order 1044, § 388-95-060, filed 8/14/75.]

**WAC 388-95-065 Coordination of services for patient/recipient.** Patient/recipient shall be provided services based on inter-divisional agreements which designate methods of sharing information pertinent to admission, treatment and discharge planning. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-065, filed 8/22/78; Order 1044, § 388-95-065, filed 8/14/75.]

**WAC 388-95-070 Department responsibilities--Patient/recipient scheduled for release.** A patient/recipient shall be released to alternate care only on the basis of joint planning and agreement between the staffs of the appropriate divisions within the department. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-070, filed 8/22/78; Order 1044, § 388-95-070, filed 8/14/75.]

**WAC 388-95-075 ESSO responsibility for social services.** (1) The ESSO shall assume primary responsibility for providing social services to the aged recipient released from the mental facility. Need for financial assistance is not a prerequisite for providing social services.

(2) Prescribed services shall include at least:

Casework, counseling, and other services to assist the recipient in understanding and carrying out the facility's recommendations for continued needed care and services. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-075, filed 8/22/78; Order 1044, § 388-95-075, 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 facility program 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) Civil commitment due to mental illness is an allowable legal procedure because it is medical in nature. Any patient whose status upon admission involves a legal procedure other than civil commitment, including a legally adjudicated "delinquent" placed in the facility or a patient admitted and detained in connection with a violation of the law whether the offense is a misdemeanor, a felony or in the nature of a delinquent act, is not eligible. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-210, filed 8/22/78; Order 1044, § 388-95-210, filed 8/14/75.]

**WAC 388-95-225 Notification process.** The bureau of mental health and the reimbursement section of the office of staff services will develop and implement by agreement a notification process to assure that confirmation of a patient/recipient's admission is shared with appropriate persons in the facility, ESSO and office of medical assistance. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-225, filed 8/22/78; Order 1044, § 388-95-225, filed 8/14/75.]

**WAC 388-95-250 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 388-95-255 Department responsibility--Admission.** The appropriate ESSO of the AFDC or SSI recipient shall be responsible for determining eligibility on a continuing basis, following the patient/recipient's progress in the facility and collaborating in efforts to maintain and/or develop family relationships as appropriate. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-255, filed 8/22/78; Order 1044, § 388-95-255, filed 8/14/75.]

**WAC 388-95-260 Services in facility.** The patient/recipient shall be entitled to the facility's full scope care only for the period of active treatment for the condition which resulted in hospitalization. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-260, filed 8/22/78; Order 1044, § 388-95-260, filed 8/14/75.]

**WAC 388-95-265 Coordination of services.** The facility has responsibility for providing initial and current medical examination reports, psychiatric evaluations, individual treatment plans, social summaries and discharge plans of each patient/recipient to the ESSO. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-265, filed 8/22/78; Order 1044, § 388-95-265, filed 8/14/75.]

**WAC 388-95-270 Department responsibilities--Release.** (1) To assure appropriate release, the facility shall provide notification and referral material to the ESSO.

(2) A patient/recipient, to be released to alternate care, shall be provided such release based on joint planning agreement of the facility and ESSO. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), §

388-95-270, filed 8/22/78; Order 1044, § 388-95-270, filed 8/14/75.]

**WAC 388-95-275 Supportive social service by ESSO.** (1) The ESSO shall assume primary responsibility for providing social services to the under 21 recipient after discharge from the facility. The need for financial assistance is not a prerequisite for providing social services. The ESSO 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, family planning clinics, 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 facility'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 facility.

(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. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-275, filed 8/22/78; 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 facility shall be the responsibility of the facility 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. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-280, filed 8/22/78; Order 1044, § 388-95-280, filed 8/14/75.]

## Chapter 388-96 WAC NURSING HOME ACCOUNTING AND REIMBURSEMENT SYSTEM

### WAC

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**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 by the operating entity 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, ICF and/or IMR services to medical care recipients.

"Contractor" – An entity which contracts with the department to deliver SNF, ICF and/or IMR 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).

"Equity capital" – Total fixed assets related to patient care from page 13 of the most recent provider cost report minus total long-term debt from page 18 of the most recent provider cost report plus working capital as defined in this section.

"ESSO" – The local economic and social service office of the department.

"Exceptional care recipient" – A medical care recipient determined by the department to require exceptionally 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.

"IMR" – When referring to a facility, one certified to provide services to the mentally retarded or persons with related conditions. When referring to a level of care, services for the mentally retarded or persons with related conditions. When referring to a recipient, a recipient requiring IMR services.

"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 or ICF/IMR 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, intermediate care and/or IMR services are 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 service 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, ICF and/or IMR services to medical care recipients.

"Working capital" – Total current assets from page 13 of the most recent cost report minus total current liabilities from page 18 of the most recent cost report. [Statutory Authority: RCW 74.09.120. 79-04-061 (Order 1381), § 388-96-010, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-010, filed 6/1/78; Order 1262, § 388-96-010, filed 12/30/77.]

**WAC 388-96-020 Prospective cost-related reimbursement.** The prospective cost-related reimbursement system is the system used by the department to pay for skilled nursing facility services, intermediate care facility services and IMR 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. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-020, filed 6/1/78; 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, ICF and/or IMR services;

(4) Hold a current contract to provide SNF, ICF and/or IMR 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. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-023, filed 6/1/78; Order 1262, § 388-96-023, filed 12/30/77.]

**WAC 388-96-032 Termination of contract.** (1) When a contract is terminated for any reason, the old contractor shall submit final reports in accordance with WAC 388-96-125. 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, ICF or IMR 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. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-032, filed 6/1/78; Order 1262, § 388-96-032, filed 12/30/77.]

**WAC 388-96-101 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 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 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. [Statutory Authority: RCW 74.09.120. 79-03-021 (Order 1370), § 388-96-101, filed 2/21/79; 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) Annual reports covering the complete fiscal year shall be submitted within ninety days after the end of the fiscal year. [Statutory Authority: RCW 74.09.120. 79-03-021 (Order 1370), § 388-96-104, filed 2/21/79; Order 1262, § 388-96-104, 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. 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. [Statutory Authority: RCW 74.09.120. 79-03-021 (Order 1370), § 388-96-122, filed 2/21/79; 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 report shall be submitted within sixty days after the end of the abbreviated period. [Statutory Authority: RCW 74.09.120. 79-04-102 (Order 1387), § 388-96-125, filed 4/4/79; Order 1262, § 388-96-125, 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) and the upper rate limits set out in WAC 388-96-760.

(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 in excess of allowable patient care and food costs, respectively, for those recipients;

(ii) In the administration and operations and property cost areas, after January 1, 1979, the contractor shall refund all portions of payments received for recipients in excess of administration and operations and property costs, respectively, for those recipients;

(iii) In the property cost area, the contractor shall refund amounts determined 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 over-payment or any installment when due, the department will 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. [Statutory Authority: RCW 74.09.120. 79-12-085 (Order 1461), § 388-96-222, filed 11/30/79; 79-04-059 (Order 1382), § 388-96-222, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-222, filed 6/1/78; Order 1262, § 388-96-222, filed 12/30/77.]

**WAC 388-96-501 Allowable costs.** Allowable costs are documented costs which are necessary, ordinary and related to the provision of SNF, ICF or IMR 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. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-501, filed 6/1/78; Order 1262, § 388-96-501, filed 12/30/77.]

**WAC 388-96-505 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, ICF or IMR 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, ICF or IMR services (e.g., costs of vending machines, patients' personal laundry, and services specified in chapter 388-86 WAC which are not included in SNF, ICF or IMR services) are nonallowable costs. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-505, filed 6/1/78; 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, ICF and/or IMR 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 and 388-88-051;
- (3) Fulfilling accounting and reporting requirements imposed by the department; and
- (4) Performing any patient assessment activity required by the department. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-507, filed 6/1/78; Order 1262, § 388-96-507, 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, including reasonable vacation, holiday and sick time) 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	
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. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-533, filed 6/1/78; 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, 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. [Statutory Authority: RCW 74.09.120. 79-03-020 (Order 1371), § 388-96-535, filed 2/21/79; 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 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. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-539, filed 6/1/78; Order 1262, § 388-96-539, 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 treated in accordance with this section.

(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. For purposes of subsections (3) and (4) of this section, the total gain shall be reduced by one percent 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, total gain shall be reduced by the portion thereof 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.

(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. 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. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-571, filed 6/1/78; Order 1262, § 388-96-571, 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, ICF or IMR 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 provided to SNF, ICF or IMR recipients which are covered by the department's medical care program but not included in SNF, ICF or IMR services respectively. Items and services covered by the medical care program 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 reimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes, or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of 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 or in IMR programs where clothing is a part of routine care.

(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.

(ff) Lease acquisition costs, costs associated with agreements not to compete, and other intangibles not related to patient care. [Statutory Authority: RCW 74.09.120. 79-04-102 (Order 1387), § 388-96-585, filed 4/4/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-585, filed 6/1/78; Order 1262, § 388-96-585, filed 12/30/77.]

**WAC 388-96-701 Reimbursement principles.** (1) Reimbursement rates will be set prospectively.

(2) Rates will be established no lower than the level which the department reasonably expects to be adequate to reimburse in full the actual, allowable costs of a facility which is economically and efficiently operated and provides care meeting client needs in compliance with applicable standards.

(3) In determining rates, the department will reasonably take into account economic conditions and trends during the time period covered by the rates. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-701, filed 1/9/78.]

**WAC 388-96-704 Prospective reimbursement rates.**

(1) The department will determine prospective reimbursement rates for SNF, ICF and IMR services provided to recipients. Each rate represents the contractor's maximum compensation for one patient day of care of a recipient determined by the department to require SNF, ICF or IMR care.

(2) A contractor may also be assigned an individual prospective rate for a specific recipient determined by the department to require exceptional care. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-704, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-704, filed 1/9/78.]

**WAC 388-96-707 Program services not covered by the reimbursement rate.** Medical services which are part of the department's medical care program but not included in SNF, ICF or IMR services are not covered by the prospective reimbursement rate. Payment is made directly to the provider of service in accordance with chapter 388-87 WAC. Items and services covered by the medical care program are listed in chapter 388-86 WAC. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-707, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-707, filed 1/9/78.]

**WAC 388-96-710 Prospective reimbursement rate for new contractors.** (1) A prospective reimbursement rate for a new contractor will be established within sixty days following receipt by the department of a properly completed projected budget (see WAC 388-96-026). It will be effective as of the effective date of the contract.

(2) This prospective reimbursement rate will be based on the contractor's projected cost of operations, and on costs and payment rates of the prior contractor, if any, and/or of other contractors in comparable circumstances.

(3) If a properly completed projected budget is not received at least sixty days prior to the effective date of the contract, the department will establish a preliminary rate based on the other factors specified in subsection (2) of this section. This preliminary prospective rate will remain in effect until an initial prospective rate can be set.

(4) Where a change of ownership is involved which is not an arms-length transaction as defined in WAC 388-96-010, the new contractor's prospective rates in the administration and operation and property cost areas will be no higher than the rates of the old contractor, adjusted if necessary to take into account economic trends. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-710, filed 1/9/78.]

**WAC 388-96-713 Rate determination.** (1) Each contractor's reimbursement rate will be determined prospectively at least twice each calendar year, to be effective January 1 and July 1. Rates may be adjusted more frequently to take into account program changes or economic conditions.

(2) Where the contractor participated in the program during all or part of the prior fiscal period, its prospective rate will be determined based on the contractor's allowable costs in the prior period. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-713, filed 1/9/78.]

**WAC 388-96-716 Cost areas.** A contractor's overall reimbursement rate for medical care recipients consists of the total of four component rates, each covering one cost area. The four cost areas are:

- (1) Patient care;
- (2) Food;
- (3) Administration and operations; and
- (4) Property. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-716, filed 1/9/78.]

**WAC 388-96-719 Method of rate determination.**

(1) Data used in determining rates will be taken from the most recent complete, desk-reviewed annual cost report and from certified quarterly reports submitted by each contractor.

(2) Data containing obvious errors, data for facilities which are out of compliance with any standard or condition at any time during the reporting period, and data for facilities with average occupancy ratios of less than eighty-five percent for the report period, will be excluded from the determination of predicted costs and rate ranges under subsections (4) and (6) of this section.

(3) Each contractor's reported cost data except, after December 31, 1978, for depreciation, interest, and lease costs, will be adjusted for economic trends based on component indices of the consumer price index issued by the United States Department of Labor, Bureau of Labor Statistics. The national averages for the most recent twelve-month period will be applied in rate computations for the cost areas in subdivisions (a) and (b) of subsection (3):

(a) Patient care—"medical care—other professional services" index;

(b) Administration and operations—Average of the "all items less food" and "services less care services" indices;

(c) For the food cost area, the Seattle consumer price index for food at home over the most recent twelve-month period will be used.

(4) A predicted cost per patient day (excluding cost data and patient days relating to exceptional care recipients) in the property cost area will be determined for each facility through multiple regression analysis, that does not include leased facilities. The formula, which will be developed by the department, will recognize factors which may be significant, including location, age, and type of facility.

(a) After all predicted costs per patient day have been computed, the difference between each facility's reported costs, adjusted to take into account economic trends, and the predicted cost will be computed. The standard deviation of the difference will also be calculated.

(b) To determine an individual contractor's prospective rate, its predicted cost for the property cost area is revised using the most current factor values that have been determined for the individual facility and the base cost and weights derived within the last twelve-month period in the regression analysis described above. A rate ceiling, defined as this predicted cost plus one standard deviation of the difference calculated, in accordance with subdivision (a) of this subsection, for the property

cost area will then be determined. If the contractor's reported costs are higher than the upper limit of the rate range, the upper limit will be the contractor's reimbursement rate. If these adjusted reported costs fall within the standard rate range, the contractor's reimbursement rate will equal the adjusted reported costs.

(5) Where new standards are imposed, or the department wishes to encourage additional services or otherwise change the program, a cost-related adjustment will be made to the appropriate cost area rates of each contractor affected by the program change. Adjustments will be made until reported costs used in setting rates reflect the new standards or program changes. [Statutory Authority: RCW 74.09.120. 79-12-085 (Order 1461), § 388-96-719, filed 11/30/79; 78-11-043 (Order 1353), § 388-96-719, filed 10/20/78. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-719, § filed 6/1/78; Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-719, filed 1/9/78.]

**WAC 388-96-722 Patient care cost area rate.** (1)

The patient care cost area reimbursement rate will be computed to cover the necessary and ordinary costs of providing routine services and supplies to recipients in accordance with WAC 388-88-050 and 388-88-051.

(2) (a) Beginning October 1, 1979, predicted patient care staffing hours per patient day in the patient care cost area will be determined for each facility through multiple regression analysis. The dependent variable will be patient care staffing data from recent cost reports or certified quarterly reports provided by the contractor. The independent variable will be the average functional status score of medical recipients in the facility as determined by the Katz ADL Scale.

(b) After the predicted patient care staffing hours per patient day have been computed, the difference between each facility's reported patient care staffing hours and the predicted hours will be computed. The standard deviation of the difference will also be calculated.

(c) A patient care staffing hours ceiling, defined as the predicted cost plus one and three-quarters standard deviations of the difference calculated in accordance with subdivision (b) of this subsection will then be determined.

(d) Beginning July 1, 1979, standard hours will be established using staffing data from recent cost reports and certified quarterly reports. For a facility, standard hours will be the facility's reported hours. Beginning October 1, 1979, a maximum patient care staffing hour ceiling will be calculated in accordance with subdivision (c) of this subsection. Standard hours may be adjusted by the department in cases where characteristics of patients in a facility have changed and staffing levels are below levels predicted by the regression equation. The wages for patient care personnel shall be the sum of the product of ninety percent of the prevailing wages for the categories of nursing assistants, licensed practical nurses, registered nurses, and noncontractual therapists and related restorative employees, expressed as an hourly rate,

based upon the state-wide salary survey conducted pursuant to RCW 41.06.160. The standard hours calculated above will be multiplied by the wages calculated above to determine a rate[.] For the initial period hourly wages for categories of employees covered within this cost center will be averaged as follows[.]

Registered nurses . . . . .	\$6.60
Licensed Practical Nurses . . . . .	\$5.30
Nursing assistants . . . . .	\$3.69

For other employees, actual reported wages plus 8 annual inflation will be used. Subsequent increases in the amount set forth in this section shall not be set forth by rule change, but will be available for inspection and examination in the Bureau of Nursing Home Affairs. Rates received by the application of the formula set forth in this section which are not devoted to meeting the wages set forth above by category are not allowable costs[.]

(3) In addition to its reimbursement rate, each contractor will be assigned a range of nursing service hours which represent the maximum and minimum number of hours the department will purchase. For purposes of this hour range for IMR facilities, nursing services include residential living services. The range will depend on the characteristics of the patients in each facility. From January 1, 1978 through December 31, 1978, it will be computed based on the ratio of the number of SNF, ICF and IMR patients of each level, respectively, to the total number of patients in the facility, assuming a range of 1-2 hours for ICF patients, 1.75-3 hours for SNF patients, 3.1-6.1 for IMR level A patients, 2.7-5.4 for IMR level B patients, 2.1-3.6 for IMR level C patients, and 1.2-2.4 for IMR level D patients. On and after January 1, 1979, this range will be derived using a uniform patient assessment performed by the department. When the certification of a contractor is changed to add or eliminate a level of care, the range will be adjusted using the ratio of patients in each level of care at the time the new certification becomes effective. When the department requires new standards or makes program changes which require more or less nursing service, the range will be adjusted as of the effective date of the new standard or program change. [Statutory Authority: RCW 74.09.120. 79-12-085 (Order 1461), § 388-96-722, filed 11/30/79. Statutory Authority: RCW 18.51-310 and 74.09.120. 78-11-013 (Order 1349), § 388-96-722, filed 10/9/78. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-722, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-722, filed 1/9/78.]

**Reviser's Note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 388-96-727 Food cost area rate.** (1) The food cost area rate will be computed to cover the necessary

and ordinary costs of procuring food, dietary supplements[,] and beverages for meals and between-meal nourishment for recipients.

(2) On July 1, 1979, food reimbursement shall be one hundred fifteen percent of the statewide average or approximately the ninetieth percentile of all costs for bulk and raw foods and beverages purchased for dietary needs, expressed as a per patient day amount. Rate increases subsequent to July 1, 1979, will be based on increases in the Seattle consumer price index for food as specified in WAC 388-96-719(3)(c). [Statutory Authority: RCW 74.09.120. 79-12-085 (Order 1461), § 388-96-727, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-727, filed 1/9/78.]

**Reviser's Note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 388-96-735 Administration and operations cost area rate.** (1) The administration and operations cost area reimbursement rate will be computed to cover the necessary and ordinary costs of overall management of the facility, operation and maintenance of the physical plant, and providing dietary service (other than the cost of food and beverages), medical supplies, taxes, and insurance.

(2) The administration and operations cost area reimbursement rate will be calculated as follows:

(a) Beginning July 1, 1979, hours for support staff other than administrators and assistant administrators will be taken from recent cost reports and certified quarterly reports provided by the contractor. Hours of support staff per patient day will be calculated. Standard hours for support staff will be determined as reported support staff hours per patient day.

(b) Wages for the above employees shall be the sum of the product of ninety percent of the prevailing wages expressed in an hourly rate, based on the state-wide salary survey as conducted pursuant to RCW 41.06.160. The standard hours will be combined with the wages determined above to calculate a rate. For the initial period hourly wages for the employees covered within this cost center shall be averaged as follows: for supervisor employees, other than administrators and assistant administrators, \$5.30; for non-supervisory employees, \$3.69. Subsequent increases in the amount set forth in this section shall not be reflected by rule change, but will be available for inspection and examination in the Bureau of Nursing Home Affairs. Rates received by the application of the formula set forth in this section which are not devoted to meeting the wages set forth above by category, are not allowable costs.

(c) For IMR facilities, standard hours may be modified by the Survey Section, Bureau of Nursing Home Affairs in consultation with the department's Division of Developmental Disabilities.

(d) Other allowable administration and operations costs will be taken from the most recent desk-reviewed annual cost report and updated using the inflation factors specified in WAC 388-96-719(4). Reimbursement



for this portion of administration and operations will be limited to the eighty-fifty percentile of all reporting facilities, except that facilities may be grouped by factors other than owners or legal organizational characteristics, which could reasonably influence cost requirements for administration and operations[.] [Statutory Authority: RCW 74.09.120. 79-12-085 (Order 1461), § 388-96-735, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-735, filed 1/9/78.]

**Reviser's Note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 388-96-743 Property cost area rate.** Property reimbursement shall not exceed the predicted cost plus one standard deviation of the necessary and ordinary costs of depreciation, and interest of owner-operated facilities utilizing a multiple regression formula developed by the Department of Social and Health Services, recognizing factors which may be significant, including location, age, and construction type of facility. Rental costs of leased facilities shall be reimbursed to the extent they do not exceed the upper band of the multiple regression formula for comparable owner-operated facilities[.] [Statutory Authority: RCW 74.09.120. 79-12-085 (Order 1461), § 388-96-743, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-743, filed 1/9/78.]

**Reviser's Note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 388-96-750 Return on investment.** (1) Beginning January 1, 1979, the department will pay a return on investment based on a contractor's equity capital as defined in WAC 388-96-010.

(2) The rate of return used to calculate this return on investment will be eleven percent or one and one-half times the most recent twelve-month average of rates of interest on special issues of public debt obligations issued to the federal hospital insurance trust fund (the Medicare rate of return on equity capital) whichever is lower.

(3) The calculation of a contractors' return on investment will consist of multiplying equity capital as defined in WAC 388-96-010 by the current rate of return.

(4) This return on investment will be paid as an addition to the property and related cost area and will not be subject to the upper limit of the cost area. This return on investment based on equity capital is applicable to proprietary contractors only.

(5) For the period January 1, 1978, through December 31, 1978, a contractor may choose to retain savings in the administrative and operations and property and related cost centers in lieu of receiving a return based on equity capital. [Statutory Authority: RCW 74.09.120. 79-04-061 (Order 1381), § 388-96-750, filed 3/28/79.]

**WAC 388-96-760 Upper limits to reimbursement rate.** The reimbursement rate shall not exceed the contractor's customary charges to the general public for the services covered by the rate, except that public facilities rendering such services free of charge or at a nominal charge will be reimbursed according to the methods and standards set out in this chapter. The contractor shall immediately inform the department if its reimbursement rate does exceed customary charges for comparable services. If necessary, the rate will be adjusted in accordance with WAC 388-96-769. Rates will not exceed the limits set out at 42 CFR 450.30(b)(6). [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-760, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-760, filed 1/9/78.]

**WAC 388-96-763 Rates for recipients requiring exceptionally heavy care.** (1) A contractor certified to care for SNF or IMR patients may apply for an individual prospective reimbursement rate for a recipient whose special nursing and direct care-related service needs are such that the cost of care will be at least twice the contractor's current reimbursement rate.

(2) Application for an individual rate for an exceptionally heavy care recipient shall be made in accordance with instructions furnished by the department.

(3) An individual rate for an exceptionally heavy care recipient will be granted for a specified period of time, subject to extension, revision, or termination depending on the recipient's care requirements at the end of such period. It will be computed to cover the projected actual costs of care of the recipient.

(4) The contractor will be informed in writing of the disposition of its application as soon as possible and in no case longer than thirty days following receipt of a properly completed application. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-763, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-763, filed 1/9/78.]

**WAC 388-96-766 Notification of rates.** The department will notify each contractor in writing of its prospective reimbursement rate. Unless otherwise specified at the time it is issued, the rate will be effective from the first day of the month in which it is issued until a new rate becomes effective. If a rate is changed as the result of an appeal in accordance with WAC 388-96-904, it will be effective as of the date the rate appealed from became effective. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-766, filed 1/9/78.]

**WAC 388-96-769 Adjustments required due to errors or omissions.** (1) Prospective rates are subject to adjustment by the department as a result of errors or omissions by the department or by the contractor. The department will notify the contractor in writing of each adjustment and of its effective date, and of any amount due to the department or to the contractor as a result of

the rate adjustment. Rates which are adjusted in accordance with this section will be effective as of the effective date of the original rate.

(2) The contractor shall pay an amount it owes the department resulting from an error or omission, or commence repayment in accordance with a schedule determined by the department, within sixty days after receipt of notification of the rate adjustment, unless the contractor contests the department's determination in accordance with the procedures set out in WAC 388-96-904. If the determination is contested, the contractor shall pay or commence repayment within sixty days after completion of these proceedings. If a refund is not paid when due, the amount thereof may be deducted from current payments by the department.

(3) The department shall pay any amount it owes the contractor as a result of a rate adjustment within thirty days after it notifies the contractor of the rate adjustment.

(4) No adjustments will be made to a rate after the annual settlement for the period in which the rate was effective has become final. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-769, filed 1/9/78.]

**WAC 388-96-772 Requests for revision of a prospective rate.** (1) A contractor may at any time request in writing a revision of its current rate. Each request shall include a detailed explanation of significant changes in the factors used to establish its rate, or of significant changes in actual costs incurred or anticipated.

(2) The department will inform a contractor of the disposition of a request within sixty days after receipt of the request and of any documentation necessary to support it. Unless otherwise specified, a revised rate shall be effective as of the first day of the month in which it is issued.

(3) A formal request is not required for a rate increase granted to all contractors to cover the cost of meeting new federal or state requirements. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-772, filed 1/9/78.]

**WAC 388-96-775 Public review of rate-setting methods and standards.** The department will provide all interested members of the public with an opportunity to review and comment on proposed rate-setting methods and standards each year before they are used to set rates. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-775, filed 1/9/78.]

**WAC 388-96-778 Public disclosure of rate-setting methodology.** Without identifying individual nursing homes, the department will make available to the public full information regarding its rate-setting methodology. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-778, filed 1/9/78.]

## Title 389 WAC PUBLIC DEPOSIT PROTECTION COMMISSION

### Chapter 389-12 Practice and procedure—Public depositories.

#### Chapter 389-12 WAC PRACTICE AND PROCEDURE—PUBLIC DEPOSITARIES

##### WAC 389-12-020 Definitions.

**WAC 389-12-020 Definitions.** Unless the context requires otherwise:

(1) **Bank.** "Bank" means any state bank or trust company, national banking association, or any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300, which is located in the state of Washington and authorized to do a general banking business therein.

(2) **Investment deposits.** The term "investment deposit" shall mean bank time deposits and savings deposits of public funds available for investment. Bank time deposit shall mean a single maturity or multiple maturity interest bearing investment deposit of public funds, which is either evidenced by a certificate of deposit issued by a bank, or reflected in a book-entry system of a bank, approved by the federal banking authorities and/or the Washington state supervisor of banking, and which is payable to a treasurer on a date certain. Such certificate shall not be negotiable, nor an interest in an investment deposit transferable, except between treasurers and/or banks.

(3) **Call report date.** "Call report date" shall mean the date designated by the comptroller of currency for reports of the statement of condition of a bank.

(4) **Date of loss.** The term "date of loss" shall mean the date on which a loss shall be deemed to have occurred within the meaning of the act, and shall be the first to happen of the following:

(a) The date of the taking of possession of the bank by a supervisory agency; or

(b) The date of the appointment of the receiver or conservator for a bank; or

(c) The date of the commencement of a voluntary liquidation proceeding for a bank; or

(d) The date on which the commission declares that a bank no longer has the ability to repay public deposits in full.

(5) **Depository Pledge Agreement.** "Depository Pledge Agreement" means a written tri-party agreement, on a form supplied by the commission, wherein a bank, in compliance with the act and as a condition precedent to becoming or continuing to be a qualified public depository, transfers and delivers securities which are eligible collateral to a corporate fiduciary under the exercise of